

LCQ17: Qualifications of mediators

Following is a question by the Hon Albert Ho and a written reply by the Secretary for Justice, Mr Rimsky Yuen, SC, in the Legislative Council today (April 24):

Question:

The Mediation Ordinance (Cap. 620) was passed by the Legislative Council on June 15, 2012 and, with the support of and promotion by the Department of Justice, the Hong Kong Mediation Accreditation Association Limited (HKMAAL) was incorporated as a non-profit-making company limited by guarantee in August of the same year. HKMAAL will discharge mediation-related accreditation and disciplinary functions. In this connection, will the Government inform this Council:

(a) of the respective requirements on the professional qualifications for accredited mediators and instructors of mediator training courses;

(b) whether the authorities will propose to HKMAAL to provide mediator training courses directly; if they will, of the details; if not, the reasons for that;

(c) of the authorities' policy on promoting more use of mediation by the public in resolving disputes;

(d) given that three of the member organisations of the Council of HKMAAL are legal professional bodies, whether the authorities have assessed if the professional development of mediation services will be dominated by the legal profession; if they have, of the assessment outcome; how the authorities ensure that mediators will come from different professions; and

(e) given that at present, some mediation accrediting organisations assess student mediators by means of role-plays,

in which student mediators take turns to play the roles of the mediator and the parties in dispute, resulting in the grading of a student being possibly affected by the performance of other students; whether the authorities know when HKMAAL will establish a standardised accreditation system to enhance public confidence in mediation services?

Reply:

President,

My reply to the various parts of the question is as follows:

(a) The Hong Kong Mediation Accreditation Association Limited (HKMAAL), a non-statutory industry-led accreditation body for mediators incorporated in August 2012 as a company limited by guarantee, is formulating accreditation standards and training requirements for mediators. For these purposes, HKMAAL has set up a Mediation Accreditation Committee and a Working Group on Accreditation Standards. HKMAAL will arrange briefings and discussion sessions and will release details of the accreditation criteria and training requirements in due course. The Administration will continue to monitor the development of accreditation and training of mediators through the Steering Committee on Mediation (Steering Committee) chaired by the Secretary for Justice (SJ) and its Accreditation Sub-committee.

(b) HKMAAL is essentially a regulatory body. Its main function is to establish an accreditation system for mediators in Hong Kong with a view to maintaining and unifying the standards of mediators and ensuring the professionalism of mediators in Hong Kong.

According to the Memorandum and Articles of Association of HKMAAL, its objectives include (i) setting standards for accredited mediators, supervisors, assessors, trainers,

coaches and other professionals involved in mediation in Hong Kong and accrediting them on satisfying the requisite standards; and (ii) setting standards for relevant mediation training courses in Hong Kong, and approving them on satisfying the requisite standards.

The Administration considers it more appropriate for HKMAAL to focus on setting standards for accredited mediators and other personnel involved in mediation and approving mediation training courses rather than providing mediation training courses. Organisations and bodies other than HKMAAL may continue to provide mediation training courses. In other words, the policy intent is to separate accreditation from training so as to avoid any possible conflict of interests.

(c) The Steering Committee chaired by SJ will take the lead in promoting mediation as a cost-effective means to resolve disputes. The Public Education and Publicity Sub-committee (the Sub-committee), one of the three sub-committees of the Steering Committee, is tasked to propose and implement, in collaboration with the Judiciary, other government departments, organisations, stakeholders and the community, on-going and new initiatives for promoting and enhancing mediation as a means to resolve disputes.

The Sub-committee has since met and is now considering various proposals for promoting the use of mediation in different sectors.

(d) The four Founder Members of the HKMAAL comprise two legal professional bodies, the Hong Kong International Arbitration Centre (HKIAC) and the Hong Kong Mediation Centre. The latter two are not legal professional bodies and have the largest panels of mediators from a diverse background including commercial, construction, accountancy, finance, medical and social work sectors. Notably, HKIAC also has a panel of Family Mediators which consists mainly of social workers. It is anticipated that other non-legal professional bodies will be

admitted as members of HKMAAL, and HKMAAL's panel of mediators will also come from a diverse background.

(e) As mentioned in (a) above, HKMAAL together with its Mediation Accreditation Committee and Working Group on Accreditation Standards is currently working on HKMAAL's accreditation standards and the requisite assessment arrangements. HKMAAL is aware of the concern arising from the arrangement by which candidates subject to accreditation assessments will participate in role plays for the accreditation assessments of other candidates. The effectiveness of this arrangement will be reviewed.

Ends/Wednesday, April 24, 2013