

2017年 “調解為先承諾書活動” “Mediation First” Pledge 2017

“調解為先 邁步向前”

“Mediate First: Moving Forward”

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I. Development of family mediation in Hong Kong (FMCO data) 家事調解發展 (調解統籌主任辦事處資料)

- 17-year from pilot to institutionalized.
(research based: 1988 UT Prof. Howard Irving *“Theory & Practice with Chinese Families”*, 1995 Catholic Marriage Advisory Council pilot projects, 1996 HKIAC training, 1999 HKU training, 2000 Poly U training.)

17年由芻模試驗計劃移向制度化

- a. 2000-2003.7 (3yrs) Pilot Scheme by Judiciary (FMCO set up inside Family Court to implement) (information, consultation, referral)

法院三年試驗計劃，目前仍在區域法院內設有調解統籌主任辦事處

b. Judiciary Research since 2003: Statistics on cases referred, success rate, number of days spent for full agreement (FA), partial agreement (PA), no agreement (NA) collated. Success rate 2015 (74%); 2016 (63%).

自2003年司法部調查：關於案件轉介，成功率及花費日數（用於完整的同意書，不完全的同意書及沒有同意書的統計數字。）
2015及2016年的成功率分別為74%及63%。

Per Judiciary Statistics on Mediation 2016:

http://mediation.judiciary.hk/en/figures_and_statistics.html#msfcimfp

2016年度司法部調解數據

(2003 to 2016 statistics – on going (13 years))



- c. 2007-2008 Policy Address, the Chief Executive announced the establishment of a cross-sector working group headed by the **Secretary for Justice (“SJ”)** (“**the Working Group**”) to review the development of mediation and to map out plans to employ mediation more extensively (2012.11.5 Legco paper CB4/SS/4/12 (subcommittee on Mediation Ordinance)).

於2007－2008年度的施政報告，行政長官宣布成立跨部門工作小組評估調解服務的發展並且更全面地推廣調解服務。

（立法會文件 CBS/SS/4/12 (調解條例小組委員會)。



- i. 2010.2.8 **WG** published a 3-month consultation paper covered the three important areas of training and accreditation, regulatory framework and publicity and public education.

2010年2月8日工作小組推出為期三個月的諮詢文件覆蓋三個重要領域：培訓及資格評審規定、規管架構及宣傳和公眾教育。

- ii. A **Mediation Task Force** chaired by SJ was set up to assist in implementing the recommendation of the Working Group.



律政司司長帶領的「調解專責小組」的成立是為了協助執行「工作小組」的推薦。

- d. Training of family mediators by HKIAC, Hong Kong Law Society – 2001. Thereafter many training programs offered by many parties.

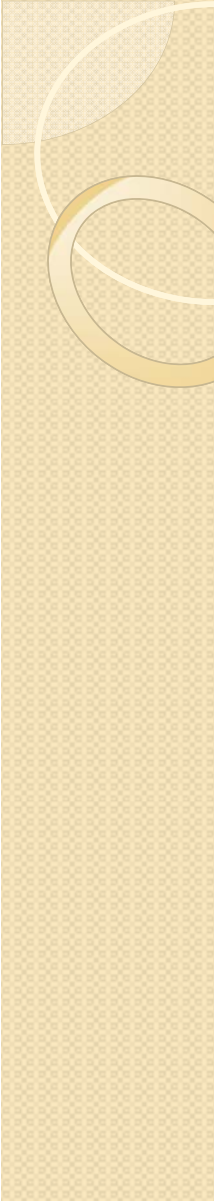
由香港國際仲裁中心培訓的家事調解員，香港律師會 2001。自此以後，很多機構開始提供大量培訓課程。



**HONG KONG
INTERNATIONAL
ARBITRATION CENTRE**
香港國際仲裁中心



THE
LAW SOCIETY
OF HONG KONG
香港律師會



e. Legal foundation/framework: Mediation Bill 2010.11.30
The **Mediation Ordinance Cap 620** passed on 2012.6.22,
took effect on 2013.1.1.

法律基礎/ 架構： 調解條例草案 2010.11.30

調解條例第620章於2012 年6月22日通過， 並於2013
年1 月1 日生效。

i. Definition of mediation: s.4 (facilitative)

調解的涵義： 第4 條 (協助)

ii. Application: mediation in HK wholly or partly (s.5.1.a); or
wherever, as agreed.

適用於： 該調解全部或部分在香港進行 (第5 條1 款a
項)， 或 該協議規定。

- iii. Does not apply to “Mediation-arbitration” conducted under s.32 and s.33 of the Arbitration Ordinance cap.609 (schedule 2 paragraph 12)

不適用於根據仲裁條例第609章第32及33條(附表2段落12)所進行的“調解-仲裁”。

- iv. Agreement to Mediate is defined: s2.1

Confidentiality entrenched: s.8,10

Exception to confidentiality: s.9, s.10 (leave of court)

進入調解之協議的解釋：第2條1款

強化保密的重要性：第8條及第10條

保密的例外情況：第9條及第10條(法庭許可)





f. Moves towards accreditation

邁向資歷評審

- i. Bills Committee considered necessary for the Administration to work out the necessary **accreditation** system working with stakeholders on the development of a single non-statutory industry-led accreditation body for mediators.

法案委員會認為行政機關有必要設立系統評審調解員資歷

- ii. A company limited by guarantee, i.e. the Hong Kong Mediation Accreditation Association (“HKMAAL”) was formed

即香港調解資歷評審協會有限公司（非官方，內行主領）



iii. HKMMAL (by Bar Association, Law Society, HKIAC, HK Mediation Centre)

Vision, mission, core values:

Setting standards for mediators, for training courses

香港調解資歷評審協會有限公司(由香港大律師公會、香港律師會、香港國際仲裁中心及香港和解中心)

抱負、使命及信念：

制定認可調解員標準；及香港的調解訓練課程標準

iv. Family mediators training: 40 hours (basic family mediation training) + 2 live supervised cases + advanced training course)

家事調解員訓練：40 小時 (包括基本家事調解訓練 + 在受監督的情況下處理 2 個真實案件+ 進階訓練課程)

II. Present state of use of family mediation

二. 家事調解現況

- a. On duration, success rate, number of hours for settlement:-
 解決所花費的時長、成功率、小時的數量：—

Year 年份	FMCO cases 調解統籌主任辦事處 案件	Mediation conducted 調解處理	Settled (PA, FA) (Success rate) 已解決 (完整的同意書, 不 完全的同意書) (成功率)	Duration (appoint- ment completion) 費時	Full agreement Partial agreement Nil 完整的同意書 不完全的同意書 沒有同意書
2015	235	154	114 (74%)	90 days	FA 14hours PA 16hours NA 11hours
2016	237	150	95 (63%)	95 days	FA 12hours PA 13hours NA 9hours

b. Collaborative Practice 2011 (Family Law Association)
協作解紛 2011

c. Pilot Scheme in Private Adjudication in family and matrimonial proceedings 2015.1.19 (PD SL9)

婚姻及家事法律程序中的私人審裁試驗計劃 (法院實務指示 SL9)

Scope is narrower than definition of Family Proceedings PD15.12 (only financial matters)

只限財務糾紛, 範圍較實務指示15.12的家事法律序為更狹窄

d. Parenting Co-ordination 2013. ◦
親職協調2013



III. Support from the Judiciary, Government and private sector to parties in family disputes

三.各方對家事調解支援

- a. Judiciary/FCMO (information, consultation, referrals)
司法/調解統籌主任辦事處(資訊、諮詢、轉介)

- b. DOJ (policy development local and international, mediation workgroup, legislation, community education)
律政司 (本地及國際政策發展，調解工作組，立法，社區教育)



c. SWD/Welfare Bureau (research, community education, venue supports)

社會福利署(調查，社區教育，場地支援)

d. DLA (funds mediation as part of litigation)

法律援助署資助調解員

e. Law Society

(promote, train
refer) 律師會

f. Bar Association

(promote, train
refer) 大律師公會



g. Funders
資助團體

h. NGOs
(promote, train
refer) 志願團體

i. HKMAAL (accreditation)
香港調解資歷評審協會有限公司

g. Universities (train, research)
大學



IV. Users' comments on family mediation

四. 使用者的評論

2017CUHK research (funded by Central Policy Unit) “Study of Family Mediation Services in HK”: Users Satisfaction Survey on Family Mediation

2017年香港中文大學研究(中央政策組資助) “香港家事調解服務研究” :家事調解服務使用者滿意度調查

http://www.familycouncil.gov.hk/english/files/research/family_mediation_services_in_hong_kong.pdf

- a. 417 cases, 200 questionnaires, 100 interviews, sourced from 4 NGOs (via Family Council)

417件案件，200份問卷，100個訪問，來源為4個志願團體(透過家庭議會)

b. Users: paid nil, \$100, more than \$501
使用者:不用付費, 100元, 多於501元

c. FA79.5%, PA18.5%, NA2%

完整的同意書79.5%，不完全的同意書18.5%，沒有同意書2%

d. High satisfaction of mediation service provided to them
對提供的調解服務為高度滿意



The service users perceived that mediation was beneficial in terms of:-

1. saving time and money;
2. minimizing their psychological stress during divorce;
3. obtaining useful information and advice for resolving the dispute;
4. getting emotional support;
5. Facilitating the negotiation of matters between ex-spouses constructively and peacefully; and
6. Enabling them to make decisions with autonomy.

使用者認為調解的好處如下:-

- 一. 節省時間及金錢；
- 二. 減少他們在離婚期間的壓力；
- 三. 獲取有用的資料及建議解決分歧；
- 四. 獲取情感支援；
- 五. 促使與前任伴侶之間的談判較為有建設性及和平；及
- 六. 令他們可以作出自主性的決定。



The service users regarded the influences of mediation on relationships to be positive in:-

- a. restoring a better relationship with ex-spouses;
- b. minimizing the negative impact of the divorce on their children;
- c. setting a good example for their children by using peaceful means to resolve the conflict;
- d. providing good grounds for co-parenting; and
- e. relieving the distress of their family members.

使用者認為調解服務可改善如下:-

- 一. 改善與前任伴侶關係；
- 二. 減少離婚對子女的負面影響；
- 三. 對子女的身教；
- 四. 幫助父母提供婚後合作；及
- 五. 舒緩壓力。



V. Measures to enhance wider use of family mediation

五.進一步推廣家事調解的方法

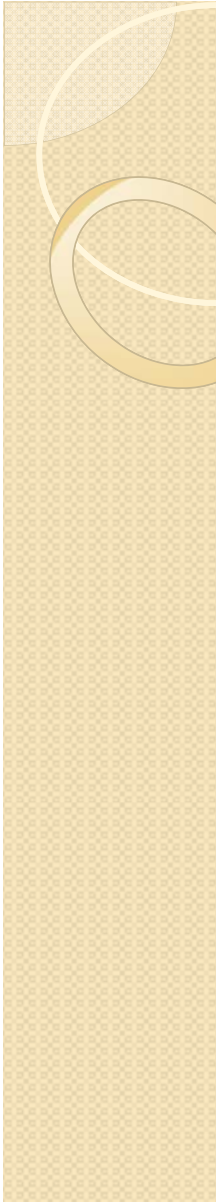
Other than current measures:-

- a. Use of mediation in family cases is not as obligatory as e.g. in CJR cases e.g. Civil cases, PI cases. One can more easily opt out without sanctions. Align it with other CJR type cases (certification, response, minutes, hearings, costs sanctions)
- b. More researches on users, on process so that mediators can perfect skills.

除了現有方法之外:-

家事案件的調解強制性不如其他的訴訟。可嘗試將家事調解用於其他類型的訴訟案件。

更多的研究好使調解員的技巧知識得以提升。



The End