

For discussion  
on 22 June 2009

## **Legco Panel on Administration of Justice and Legal Services**

### **Development of mediation services**

The purpose of this paper is to set out the latest developments on the work by the Working Group on Mediation ('Working Group'), chaired by the Secretary for Justice and its three Sub-groups.

#### **Working Group on Mediation**

2. At the meeting of the AJLS Panel held on 23 June 2008, Members were briefed on the establishment and the work of Working Group. The Working Group held its first meeting on 26 February 2008 and its sixth meeting on 30 April 2009. In the period of just over a year, it worked closely with its three Sub-groups and considered issues that included the availability of suitable venues for mediation in the community, mediation courses offered by law schools, promotion of mediation to the commercial sector, a draft Hong Kong Mediation Code, options for enforcement of the Code, standards for accrediting mediators and the need for legislation on mediation.

#### **Latest developments on work of the Public Education and Publicity Sub-group**

3. The Public Education and Publicity Sub-group, chaired by Mr. Fred Kan examined the ways to promote a wider use of mediation and promote public education on mediation. The Sub-group was also briefed on efforts to promote peer mediation in schools. Noting that there was concern over the availability of venues for mediation, the Sub-group worked to maximise the use of resources in the community. The opportunity was also taken to explore ways to facilitate community mediation. In this connection, a pilot project will soon be implemented and mediators, from namely, the Hong Kong Mediation Council, the Hong Kong Mediation Centre, the Law Society of Hong Kong and the Hong Kong Bar Association, who are conducting pro bono mediation will be

able to use the venues in two community centres<sup>1</sup> during specified periods free of charge. The pilot scheme is anticipated to start on 1 July 2009.

4. The Sub-group also promoted awareness and the use of mediation in the commercial sector through a ‘Mediate First’ campaign. Companies and trade associations and organisations were invited to subscribe to the ‘Mediate First’ pledge. A ‘Mediate First’ briefing reception which was supported by various organisations<sup>2</sup> was held on the 7 May 2009. A new website [www.mediatefirst.hk](http://www.mediatefirst.hk) was launched. A mediation booklet was prepared and distributed. As at 1 June 2009, over 69 companies and 40 trade associations or organisations have signed ‘Mediate First’ pledges and reaffirmed their commitment to consider the use of mediation to resolve disputes before pursuing other Alternative Dispute Resolution processes or litigation in court. The Sub-group will continue its efforts to promote the use of mediation in the community and commercial sector.

#### **Latest developments on work of the Accreditation and Training Sub-group**

5. The Accreditation and Training Sub-group chaired by Mr. Lester Huang reviewed the accreditation and training for mediators in various overseas jurisdictions. The Sub-group worked on a voluntary code of conduct for mediators in Hong Kong. A draft code of conduct called the Hong Kong Mediation Code is being prepared for a consultation with relevant mediation service providers at a forum on the 26 June 2009. This is to obtain feedback from the mediation service providers who are expected to adopt the code of conduct for their members who conduct mediation.

6. The Sub-group looked at various options for regulatory enforcement of the Hong Kong Mediation Code. These ranged from having a voluntary self-regulating framework to the establishment of a regulatory entity in the form of a company limited by guarantee or a statutory regulatory corporation established by legislation.

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<sup>1</sup> The Henry G Leong Community Centre in Yaumatei and Leighton Hill Community Centre in Wanchai.

<sup>2</sup> Including the Hong Kong Bar Association, the Law Society of Hong Kong, the Hong Kong Federation of Insurers, the Hong Kong Mediation Council, the Hong Kong Mediation Centre, the Consumer Council, the Hong Kong Federation of Women Lawyers and the Department of Justice.

### **Latest developments on work of the Regulatory Framework Sub-group**

7. The Regulatory Framework Sub-group chaired by Mr. Rimsky Yuen, SC considered whether Hong Kong should enact a Mediation Ordinance. The Sub-group also considered the proposed contents of such an Ordinance should one be enacted. These included definitions of key terminology, objectives and principles of a Mediation Ordinance, confidentiality and privilege, immunity of mediators, limitation, enforcement of mediated settlements, mediation agreement, model rules for mediation and contents of a mediation agreement. The Sub-group looked at the regulatory framework for mediation in various overseas jurisdictions.

### **Reports of the three Sub-groups**

8. Upon completion of their deliberations later this year, the three sub-groups will report their findings and recommendations to the Working Group.

### **Report of the Working Group on Mediation**

9. The Working Group is planning to complete its report with recommendations in December this year for public consultation early next year.

**Department of Justice**  
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