

**LegCo Panel on Administration of Justice and Legal Services
Pilot Scheme on Family Mediation**

Background

The Chief Justice appointed a Working Group to consider a Pilot Scheme for the Introduction of Mediation into Family Law Litigation in Hong Kong in October 1997. The Working Group is chaired by a Judge of the Court of First Instance of the High Court, with representatives from the Bar Association, the Law Society, the Family Law Association, representatives from the Hong Kong International Arbitration Centre and the government departments concerned.

2. The study of overseas experience indicates that under certain circumstances, family mediation has been shown to have the benefits of reducing the emotional trauma on the couple concerned, arriving at amicable settlement, minimizing the need for and costs of litigation and reducing the court time required for dealing with such cases. With the recommendations of the Working Group, the Chief Justice has approved the introduction of a three-year pilot scheme to test the effectiveness of mediation in resolving matrimonial disputes in Hong Kong.

The Pilot Scheme

3. The pilot scheme consists of the following major elements –
- (a) A steering committee to be set up to oversee the implementation and evaluation of the scheme;
 - (b) A Mediation Coordinator to be appointed to publicize and coordinate the provision of mediation services;
 - (c) Applicants for the services to be given a choice of family mediators from the Social Welfare Department, non-governmental organizations and mediators in private practice, to try out different means of providing the services; and
 - (d) An independent research team to be commissioned to evaluate the effectiveness of the pilot scheme.

4. Participation in the pilot scheme will be entirely on a voluntary basis. Lawyers will be obliged, through the issue of a Practice Direction by the Chief Justice, to advise their clients of the choice of mediation and how it may assist in the proceedings; and to give to their clients the information leaflet on mediation prepared by the Mediation Coordinator. The staff of the Family Registry will advise those acting in person accordingly. It would however be up to the parties concerned to decide whether they would like to try out mediation service or not.

5. The Working Group recommended that a Mediation Coordinator's Office should be set up in the Family Court Building to give a clear indication of the court's support for mediation. The primary responsibilities of the Co-ordinator are to formulate publicity strategy and prepare publicity materials to enhance public awareness of mediation in family law litigation, provide information sessions to applicants to explain the process of mediation and to make referral of suitable cases to accredited family mediators in the Social Welfare Department, those in non-government agencies providing mediation services or the mediators in private practice. Applicants will be given the choice of mediators from the three sources mentioned above and resources should be made available to them for the provision of mediation service under the pilot scheme to encourage more people to try out the service.

6. To evaluate the effectiveness of the pilot scheme, an independent research team will be commissioned to conduct an evaluation study. The research team will be required, in consultation with the parties concerned, to design the mode of data collection, conduct interviews, if necessary, and consolidate data. The team will be required to complete a mid-term review report and a full evaluation report. On the basis of the findings, the Judiciary will evaluate the effectiveness of the pilot scheme and recommend to the Government whether or not family mediation services should be provided on a permanent basis.

Progress so far

7. The Chief Justice has already appointed a steering committee chaired by a Judge of the Court of First Instance, with members from the Judiciary, the legal profession, the social service sector, the mediation profession and the relevant government departments, to oversee the implementation of the pilot scheme. Since its inception in October 1999, the committee has met three times to discuss various matters relating to the implementation of the scheme, including the Practice Direction on the pilot scheme, allocation of fund for the provision of mediation services

and the selection of the research team for the evaluation of the scheme. The Practice Direction has been prepared in consultation with the legal and mediation profession and is now near completion. Bids for the evaluation project have been invited and the selection process will soon be completed. For the purpose of the three-year pilot scheme, approval has been granted for a new non-recurrent commitment of \$7.5 million, and the actual fund allocation arrangement is also under active consideration and will soon be finalized.

8. The Mediation Coordinator's Office was set up in the Family Court premises in Wanchai in June 1999 to carry out the necessary preparatory work. In consultation with the legal and mediation profession, the Coordinator is finalizing the case referral mechanism and the procedural guidelines. The production of all the necessary publicity materials is nearing completion.

Way forward

9. We intend to commence the pilot scheme before the end of the current financial year when all the necessary preparatory work has been put in place.

Judiciary
February 2000