



Hong Kong Construction Arbitration Centre 香港建築業仲裁中心

HONG KONG CONSTRUCTION MEDIATION CENTRE 香港建築業調解中心

本中心為一非牟利機構，致力改善及推動以優良糾紛預防及解決方式改善建築業操作的和諧和成就。HKCAC is a non-profit taking organisation aimed to improve the harmony and achievement for the construction industry, by adopting and promoting quality dispute prevention and resolution.

Mediation was introduced in Hong Kong firstly in 1984 by the government on construction works contract. Construction industry has been referred to as the forerunner to the current mediation development in Hong Kong. Reasons are obvious. The complexity of construction contracts and subcontracts, practice and operations, the great amount and variety of professional and technical knowledge skills, restricted time frame and site conditions, etc. all put and packed together develop various kinds of complex construction disputes of overlays of liabilities leading to the extremely high transaction costs for settlement through adjudicative processes.

The benefit of mediation for construction disputes, with the avoidance to visit the aspect of right or wrong and its much slimmer model, is attractive to the construction industry. As indicated in our research, its unpopularity in usage by mass after 30 years of introduction has been the unavailability of professionalised construction mediators and specialised process to see to its particular needs. It is often view that if their disputes and interests cannot be well understood in the process, satisfactory settlement cannot be possible.

Unequivocally, the Judiciary in Practice Direction 6.1 (2006) considers construction disputes as specialised disputes whereby case management is required with the participation of expert witness before better justice can be achieved. The Hong Kong Mediation Code 2009 requires mediators to have specialised training and accreditation to the needs of the disputes as his responsibility to the public and the process. Internationally and locally, mediation is a flexible means of dispute resolution to be adaptable and customisable to meet the needs pertinent to the nature and demand of the disputes, individually and industrially. Here, “industrially” refers not to the mediation industry but, for example, construction industry, and so on.

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It is based on these practice frameworks and the objectives to meet this particular industrial needs of the construction industry that the Hong Kong Construction Arbitration Centre, since establishment in 2006, develops and customises the on-the-shelf general mediation practice industrially (construction) into a specialised style that provides efficient and effective results for settlement of construction disputes. This customised style titled "Specialized Facilitative Mediation" has been the substance of our training and accreditation of our construction mediators since 2009.

As a construction mediation service promoter, the practice and benefit of SFM has been deployed across many professional and trade organisations as well as individuals in the construction and dispute resolution communities. At present, a regular communication network of over 2,500 among the construction and related industry is maintained, with constant working relationship with over 20 construction and related organisations. The HKCAC Headline published in December 2012 singly on development of mediation in Hong Kong for the construction industry after the Mediation Ordinance coming into effect on 1 January, 2013 displays articles from 12 contributors renowned in the construction and mediation fields, and was distributed vastly among the construction and legal communities as well as relevant government departments.

With regard to the “provision of mediation services in Hong Kong”, like other specialised industries in the region, we see that, in order to provide a sustainable development for mediation to serve its purpose to provide “satisfactory” settlement of disputes, construction disputes must be continually taken and provided with specialisation both on (a) mediation practice, and (b) mediator’s professionalism. We will continually provide our service to the construction industry in the manner and objectives as stated through institutionalisation and professionalisation. We hope and trust that the government will take on the market’s needs as material and genuine calls for their support at all angles and levels.