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Panel on Administration of Justice and Legal Services

Meeting on 2 June 2025

Background brief on the work of the Department of Justice to deepen the mediation culture and review the mediation regulatory regime

Purpose

This paper provides background information on the work of the Department of Justice (“DoJ”) to deepen the mediation culture and on Hong Kong’s mediation regulatory regime, and summarizes the major views and concerns expressed by members of the Panel on Administration of Justice and Legal Services (“the Panel”) in the Seventh Legislative Council (“LegCo”) on the above and related matters.

Background

Legal framework for the conduct of mediation in Hong Kong

2. According to the Administration, the Mediation Ordinance (Cap. 620), which came into operation on 1 January 2013, and the Apology Ordinance (Cap. 631), which came into effect on 1 December 2017, provide a sound statutory framework for the conduct of mediation in Hong Kong. Cap. 620 provides a regulatory framework for the conduct of mediation in Hong Kong without hampering the flexibility of the mediation process,¹ and its objects are to **promote, encourage and facilitate the resolution of disputes by mediation**, and to **protect the confidential nature of mediation communications**; whereas Cap. 631 seeks to provide for the effect of apologies in certain proceedings and legal matters, and its object is to **promote and**

¹ For the purposes of MO, mediation is a structured process comprising one or more sessions in which one or more impartial individuals, without adjudicating a dispute or any aspect of it, assist the parties to the dispute to do any or all of the following including identifying the issues in dispute, exploring and generating options, communicating with one another and reaching an agreement regarding the resolution of the whole, or part, of the dispute.

encourage the making of apologies with a view to preventing the escalation of disputes and facilitating their amicable resolution.²

3. On the basis of the recommendations made in the Report on Third Party Funding for Arbitration published by the Law Reform Commission of Hong Kong in October 2016 and the recommendations of the Steering Committee on Mediation³, the Administration decided to amend Cap. 620 to clarify that **third party funding of mediation was not prohibited by the common law doctrines of maintenance and champerty**, and to provide for related standards and safeguards. To implement the proposed amendments, the Administration introduced the Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Bill 2016 into LegCo on 30 December 2016, and the Bill was passed by LegCo on 14 June 2017.

4. According to the Administration, the said amendments would **help promote the use of mediation services in Hong Kong** and further enhance Hong Kong's position as an international alternative dispute resolution centre; however, the commencement of the new section 7A(c) and (d) added to Cap. 620 by the enacted Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017 (Ord. No. 6 of 2017) has been **deferred to a future date** following further consultation with the mediation community and relevant stakeholders on **certain issues concerning third party funding of mediation** with a view to **addressing** them.

Pilot Scheme on Community Mediation and other efforts of the Department of Justice to deepen the mediation culture

5. According to DoJ, it is the long-term policy of DoJ to promote and develop the wider use of mediation to resolve disputes. As part of the policy initiatives relating to mediation in the Chief Executive's 2024 Policy Address, DoJ issued the **Policy Statement on the Incorporation of Mediation Clauses in Government Contracts** on 6 November 2024 during the Hong Kong Legal Week 2024, setting out the Government's policy stance and approach on further promoting the use of mediation to resolve conflicts in an amicable way, and stating that a mediation clause will be incorporated in government contracts as a matter of general policy. In addition, the

² In Cap. 631, an apology made by a person in connection with a matter means an expression of the person's regret, sympathy or benevolence in connection with the matter, and includes, for example, an expression that the person is sorry about the matter. Section 7 of the Ordinance provides that in most civil proceedings, an apology does not constitute an express or implied admission of fault or liability and must not be taken into account in determining fault, liability or any other issue to the prejudice of the apology maker; and section 8 of the Ordinance provides that evidence of an apology made by the apology maker is generally not admissible as evidence for determining fault, liability or any other issue to the prejudice of the apology maker.

³ In 2012, the then Secretary for Justice set up the Steering Committee on Mediation to advise on the further promotion and development of mediation services in and outside Hong Kong. The functions of the Steering Committee on Mediation are now subsumed under the Expert Advisory Group on Legal and Dispute Resolution Services established by DoJ in October 2024.

Administration will **launch a two-year Pilot Scheme on Community Mediation within 2025** to promote the application of, and empower the public to apply, mediation skills in resolving daily disputes through measures such as the training of community workers. It **completed the review of the regulatory system on the accreditation and disciplinary matters of the mediation profession in Hong Kong at the end of 2024**, and will propose measures to strengthen the regulatory system and commence related work within 2025, so as to reinforce the professionalism of mediators.

Members' views and concerns

Incorporation of mediation clauses in government contracts

6. Members pointed out that the application of mediation was wide-ranging, as it was applicable to neighbourhood disputes and owners' corporation ("OC") disputes in daily lives, as well as commercial and international disputes. In this connection, they supported the Administration's work to deepen the mediation culture, and considered that mediation was beneficial to the community, the legal sector and the use of judicial resources. They acknowledged the Administration's efforts in promoting standard mediation clauses, and hoped that **the Administration would take the lead in incorporating mediation clauses in government contracts**.

7. The Administration noted members' views, and members subsequently learnt that further to the Policy Statement⁴ issued by the Administration on 6 November 2024, the policy on the incorporation of mediation clauses in government contracts officially took effect on 6 February 2025, and DoJ promulgated "The Government of the Hong Kong Special Administrative Region Mediation Rules (2025 Edition)" ("the Rules")⁵ on the same day. The Rules provided for a set of procedural rules for the conduct of mediation proceedings and were intended to operate together with the mediation clause in government contracts, without affecting the operation of "The Government of the Hong Kong Special Administrative Region Construction Mediation Rules (1999 Edition)" promulgated by the then Works Bureau in 1999, as amended by the then Environment, Transport and Works Bureau in 2003. By taking the lead to incorporate mediation clauses in government contracts, the Administration hoped that private organizations would be encouraged to draw reference from and incorporate in their contracts similar mediation clauses, thereby deepening the "Mediate First" culture.

⁴ See paragraph 5 above.

⁵ The Rules are available on DoJ's website at:
https://www.doj.gov.hk/en/legal_dispute/pdf/government_of_the_hk_special_administrative_region_mediation_rules_2025_en.pdf.

Pilot Scheme on Community Mediation and deepening the mediation culture at the district level

8. Members upheld the importance of deepening the mediation culture at the district level, and hoped that government departments would continue to promote the “Mediate First” concept and **do a good job of mediation among the public and between departments and the public**, such as by promoting the use of mediation in handling views and complaints received through 1823. Moreover, the Administration should consider **providing mediation training to District Council members, as well as members of the District Services and Community Care Teams, who were on the front line in the community**, so as to assist them in using mediation skills (without necessarily becoming accredited mediators) to resolve common community disputes, such as those involving neighbours or OCs, thus enabling the mediation culture to be widely adopted in the community.

9. Regarding the Administration’s plan to launch the Pilot Scheme on Community Mediation in 2025,⁶ members requested the Administration to elaborate on the **details** of the **Pilot Scheme**, and suggested that the Administration could give priority to taking forward the Pilot Scheme in **livelihood areas where disputes were more common** (e.g. **water seepage** problems in **buildings** or common disputes involving **OCs**) to effectively promote mediation as a means of resolving daily disputes in the community.

10. The Administration took note of members’ views and would continue to step up its promotional and educational efforts for further publicity at different stages. Specifically, DoJ, in collaboration with the Environment and Ecology Bureau and the Food and Environmental Hygiene Department, preparations were underway for the launch of the two-year Pilot Scheme on Community Mediation. Through the training of property management personnel, the Pilot Scheme sought to help them gain a better understanding of mediation and its value in harmonious dispute resolution, and acquire mediation skills to resolve daily disputes. The Administration aimed to build up the public’s awareness of and confidence in the use of mediation to resolve disputes by enhancing the mediation skills of community workers and motivating them to put their mediation skills into practice, thereby deepening the mediation culture at the district level.

11. Noting from the information provided by the Judiciary that the actual number of mediation cases had not increased as expected, members suggested that the Judiciary should **step up its efforts in persuading litigants to use mediation**, and **solicitors should also encourage their clients to use mediation as an alternative to litigation** to help alleviate the workload of the courts, shorten court waiting times, and save the amount of time and money spent on litigation. The Administration advised that part of the reasons giving rise to the above situation was that the legal profession was still not very keen on advising clients to use mediation, and that in certain court cases (e.g.

⁶ See paragraph 5 above.

personal injuries and matrimonial cases), a significant number of clients did not take mediation seriously despite the courts' requirement that litigants should first pursue mediation. The Administration considered it necessary to "manage litigation from the outset", and would apprise the public of the benefits of mediation through education and promotion.

Accreditation of the mediation profession

12. The establishment of the accreditation and disciplinary system for the mediation profession in Hong Kong and a consolidated panel of mediators in the Guangdong-Hong Kong-Macao Greater Bay Area ("GBA") had also been an issue of concern to the Panel. In this connection, the Administration was requested to advise members of the progress of its work on this front. According to the information provided by the Administration in February 2025, DoJ established the Working Group on Mediation Regulatory System in October 2024, and completed the review of the regulatory system on the accreditation and disciplinary matters of the mediation profession in Hong Kong at the end of 2024. DoJ was considering the views of the aforesaid Working Group and would conduct a consultation exercise in due course. Besides, the Guangdong-Hong Kong-Macao Greater Bay Area Mediator Accreditation Rules (Hong Kong Special Administrative Region), applicable to the accreditation through Hong Kong, and the consolidated panel of GBA mediators were published in March 2024 and December 2024 respectively.

Latest position

13. The Administration will brief the Panel on the Pilot Scheme on Community Mediation and provide an update on its review of the mediation regulatory regime at the Panel meeting on 2 June 2025.

Relevant papers

14. A list of the relevant papers on the LegCo website is in the [Appendix](#).

**The work of the Department of Justice to
deepen the mediation culture and review the mediation regulatory regime**

List of relevant papers

Committee	Date of meeting	Papers
Panel on Administration of Justice and Legal Services	22 April 2024	Agenda Item III: Deepening Mediation Culture Minutes
	1 November 2024	Agenda Item III: Briefing by the Secretary for Justice and the Director of Administration on the Chief Executive's 2024 Policy Address Minutes of policy briefing-cum-meeting
	10 February 2025	Agenda Item III: Promoting the development of the legal profession in Hong Kong Minutes