

Development of Mediation in Hong Kong

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Abstract

This article surveys the current initiatives in Hong Kong to popularize mediation and considers the role played by the Legislature, the executive, the Justice Department and the judiciary. It sets out the important role that the working group of mediation will play in promoting mediation.

I. Mediation in Hong Kong

Mediation has been in use in Hong Kong for some time particularly in the areas of construction disputes¹ and family disputes². However, it would only be fair to say that the use of mediation is still relatively restricted in Hong Kong in terms of the extent and the intensity of its use when compared with other jurisdictions such as Australia, New Zealand, Canada, the United States and the United Kingdom.

In his 2007-2008 Policy Address, 'A New Direction for Hong Kong', the Chief Executive of Hong Kong pledged to develop mediation services in Hong Kong. The mapping-out of how mediation can be more effectively and extensively applied in both commercial disputes and at the community level remains an ongoing initiative following the 2008-2009 Policy Address.

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¹ Mediation has been in use in construction disputes in Hong Kong since the early 1980s. In the early 1990s, it was adopted for all major public works contracts, such as the Airport Core Programme contracts. It proved very effective in reducing the number of claims that would otherwise have proceeded to arbitration.

² In May 2000, a three-year pilot programme for family mediation was launched by the Judiciary. The Mediation Co-ordinator's Office was set up in the Family Court building to assist in the implementation of the scheme. The programme had a high user satisfaction rate and a high agreement rate. The Judiciary decided to retain the Mediation Co-ordinator's Office at the end of the pilot programme.