

Working Group on Mediation Regulatory System

Final Recommendations

Final Recommendation 1

It is considered that imposing a licensing regime may be unnecessary, unsuitable and premature in light of the current mediation landscape in Hong Kong. It is recommended that mediation in Hong Kong should remain as a non-licensed activity with no mandatory licensing or accreditation regime for practising as a mediator. We may further explore how the existing mediator accreditation regime can be refined and enhanced in the future, e.g. through the establishment of more mediator panels in specific areas or fields.

Final Recommendation 2

It is recommended that HKMAAL should, at this stage, retain its status as a private company limited by guarantee and continue to effectively perform its intended functions as a premier, industry-led mediation accreditation and regulatory body, with an enhanced role and expanded functions.

Final Recommendation 3

It is recommended that HKMAAL be granted statutory default appointing power in the absence of an agreed choice of a mediator through legislative amendments. As in the case of the Hong Kong International Arbitration Centre, an express reference to HKMAAL in the legislation would give HKMAAL formal legal recognition and statutory power, thus reinforcing its authoritative status which is conducive to its taking a lead role in furthering the development of mediation in Hong Kong.

Final Recommendation 4

A well-established and well-drafted code of conduct for mediators is paramount to ensuring the quality of mediators. It is recommended that HKMAAL complete

the review of the Mediation Code, and going forward, take ownership and responsibility of reviewing, managing and administering it. This would better regulate the conduct of HKMAAL-accredited mediators, and provide a consistent professional standard for mediators.

Final Recommendation 5

To maximise the utility of the Mediation Code, it is recommended that promotional efforts should be made to encourage the parties to adopt the Mediation Code in their mediation agreements as the professional standard of mediators, thereby providing certainty regarding the applicable professional standard in a particular mediation.

Final Recommendation 6

In conjunction with the review of the Mediation Code, it is recommended that HKMAAL finalise and implement a robust complaint handling and disciplinary framework enforcing the Mediation Code. Subject to the principle of confidentiality, HKMAAL should take proactive and systematic steps to publicise a database of its disciplinary findings on its official website.

Final Recommendation 7

It is recommended that HKMAAL actively participates in global discussions on dispute resolution as a representative of the Hong Kong mediation industry in international conferences, seminars, and symposiums, and fosters partnerships with other mediation institutions in other jurisdictions worldwide.

Where appropriate, HKMAAL might explore the possibility of reviewing its governance structure to better align with its evolving role and functions as recommended above.