



THE

LAW SOCIETY
OF HONG KONG

香港律師會

MEDIATOR ACCREDITATION SCHEME
INFORMATION PACKAGE

September 2010

The Law Society of Hong Kong
3rd Floor, Wing On House
71 Des Voeux Road
Central, Hong Kong
DX-009100 Central 1
Email: dsd@hklawsoc.org.hk
Tel: 2846-0551
Fax: 2845-0387

CONTENTS

I.	Objectives of the Mediator Accreditation Scheme	1
II.	Procedures for Accreditation of Mediators	1
	1. Establishment of two panels of mediators.....	1
	2. Requirements to be an Accredited General Mediator	2
	3. Requirements to be an Accredited Family Mediator.....	3
	4. Requirements to be an Accredited Family Mediation Supervisor.....	5
	5. Exemption	6
	6. Panel membership	6
	7. CPD requirements	7
	8. Fees	10
III.	Accreditation of Mediation Training Courses	10
	1. Criteria of approval.....	10
	2. Application.....	11
	3. No Retrospective Accreditation.....	12
	4. Documents and Information Required on Application for Course Accreditation	12
	5. Administrative Matters	12
	6. Prescribed Fee.....	13
	7. Monitoring of Accredited Courses by the Law Society's Representatives	13
IV.	Guidelines and Code	14
	1. Ethical Code for Mediators.....	14
	2. Guidelines for Professional Practice of Family Mediators.....	15
	3. Guidelines for Supervision of Trainee Mediators	23
V.	Appendices	30
	1. Form MA1	31
	2. Form MA2.....	34
	3. Form MA3.....	35
	4. Form MA4.....	36
	5. Form MA5.....	42
	6. Application form for accreditation of mediation training course	43

The Law Society of Hong Kong

7.	Flow chart on the process to become an Accredited General Mediator	47
8.	Flow chart on the process to become an Accredited Family Mediator	48

I. OBJECTIVES OF THE MEDIATOR ACCREDITATION SCHEME

The accreditation system is designed:

- to safeguard the minimum professional standard of mediation practice in Hong Kong;
- to encourage the public to utilise our members' mediation services; and
- to encourage our members to advance their mediation skills.

To achieve consistency in the procedure and standard of mediation practice, the Society has modelled its documentation (relating to the procedures for accreditation of mediators, the mediator accreditation assessment forms, CPD criteria, criteria for accreditation of mediation training, general ethical code, guidelines for professional practice of family mediators and guidelines for supervision of trainee mediators) on the relevant documentation of the Hong Kong International Arbitration Centre*.

Solicitors who are not accredited under the Mediator Accreditation Scheme are not barred from working in mediation. However, being accredited demonstrates that the solicitors' skills, knowledge and experience in mediation have been independently assessed to have maintained a given level of competence. The accredited mediators are also regulated by an Ethical Code for Mediators and a Code of Practice.

II. PROCEDURES FOR ACCREDITATION OF MEDIATORS

1. Establishment of two panels of mediators

It is recognised by the Law Society of Hong Kong ("LSHK") that the skills of a successful mediator are largely unrelated to the type of dispute, although a mediator having specialist knowledge of the type of dispute may in some cases facilitate settlement. It is part of the normal accreditation process to assess the specialist knowledge of potential panel members. Parties seeking mediation are normally well equipped to assess the relevance of specialist knowledge and to select a mediator accordingly. The exception to this rule is in the area of family mediation. In this area, specialist knowledge of family law and dynamics is required.

* HKIAC documentation as of 7 June 2005.

The Law Society of Hong Kong

In light of the above, two panels of accredited mediators are maintained by the LSHK:-

- (a) the General Panel; and
- (b) the Family Panel.

A solicitor may qualify for both panels, but as few solicitors are expected to seek such dual accreditation, the two panels will have separate accreditation procedures. Any person seeking to have training that was obtained under one procedure recognised for the other procedure will be assessed on an individual basis.

2. Requirements to be an Accredited General Mediator

To qualify for accreditation as a General Mediator, a solicitor (“candidate”) must complete the following 3 stages:

Stage 1 - Preliminary

- (a) Hold a current practising certificate.
- (b) Be a member of the LSHK.
- (c) Satisfactory completion of a mediation training course or courses of 40 hours minimum duration approved by the LSHK Mediator Accreditation Committee.
- (d) The LSHK Mediation Accreditation Committee has the right to waive any or all of the above requirements in particular cases.

Stage 2

- (a) Mediate or co-mediate at least 2 actual or simulated mediation cases.
- (b) After completion of any 2 such actual or simulated mediation cases, a candidate is required to complete a self evaluation sheet (Form MA2 at **Appendix 2**) assessing the mediation process in which he participated.
- (c) In addition, a candidate must obtain:
 - (i) in the case of an actual mediation, 2 completed evaluation sheets (Form MA3 at **Appendix 3**) from the clients, together with the comments from the supervisor (Form MA4 at **Appendix 4**) on the candidate’s performance, or
 - (ii) in the case of simulated mediations, comments from the simulation supervisors (Form MA4).

The Law Society of Hong Kong

The purpose of the evaluation sheets is to satisfy the LSHK Mediator Accreditation Committee that an acceptable level of competence as a mediator has been achieved.

STAGES 1 – 2 ARE TO BE COMPLETED WITHIN A 4-YEAR PERIOD.

Stage 3

- (a) Within 4 years after completion of stages 1 and 2, candidates may apply to the LSHK Mediator Accreditation Committee for accreditation using Form MA1 (at **Appendix 1**), attaching the Stage 2 mediation evaluation sheets (MA2 and MA3/MA4) to the application.
- (b) Prior to accreditation being approved, a candidate for mediation accreditation may be called by the LSHK Mediator Accreditation Committee to take part in an accreditation assessment, including a personal interview, and a possible further simulation supervised by an accredited supervisor chosen by LSHK Mediator Accreditation Committee, who must submit a completed Form MA4 in connection with the further simulation.

Candidates who are accredited will have their names included on the relevant LSHK Panel of Accredited Mediators, subject to complying with all the above requirements.

3. Requirements to be an Accredited Family Mediator

In order to qualify for accreditation as a Family Mediator, a candidate is required to complete the following 4 stages:

Stage 1- Preliminary

- (a) Hold a current practising certificate.
- (b) Have been engaged in the practice of law for 5 years on a full time basis or equivalent.
- (c) For 3 years prior to the application, demonstrate a sufficient involvement in the area of family law.
- (d) Be a member of the LSHK.
- (e) Satisfactory completion of a basic family mediation training course or courses of 40 hours minimum duration as approved by the LSHK.
- (f) The LSHK Mediation Accreditation Committee has the right to waive any or all of the above requirements in particular cases.

Stage 2- under Supervision of a LSHK Approved Supervisor

- (a) Co-mediate two actual family mediations under the supervision of an LSHK Accredited Family Mediation Supervisor.

(Refer to the LSHK website (www.hklawsoc.org.hk) for a list of Accredited Family Mediation Supervisor.)

- (b) The candidate may nominate a Supervisor from the approved list, subject to the Supervisor's consent. The Supervisor may accept, turn down or wait list the applicant in consideration of personal capacity, caseload, language and cultural compatibility.
- (c) A supervision fee (to be agreed in writing between the Supervisor/the agency to which the Supervisor belongs and the candidate) will be paid by the candidate to the Supervisor/Supervisor's agency as the case may be for the supervision service and which fee shall in no event exceed the amount as set out in the Fee Schedule on page 10. For those approved Supervisors in private practice this fee will be in addition to normal client fees. The source of case referrals and venue for the supervised mediations are to be negotiated between the Supervisor and the candidate.
- (d) A Supervisor, who agrees to co-mediate with or supervise a candidate, will co-mediate or supervise only one case with a candidate. Each case shall be of a minimum of five hours and must be sufficiently complex for the candidate to demonstrate the ability to manage emotional intensity and mediate complex financial and child related matters.
- (e) The Supervisor will provide not less than 30 minutes of feedback discussion after each mediation session and will complete and sign an evaluation form (Form MA4) within 14 days of the end of the mediation. The Supervisor shall be as thorough and comprehensive as possible in the feedback discussions and in the completion of Form MA4. A copy of Form MA4 shall be provided to the candidate.
- (f) The candidate will be required to complete the self-evaluation form (Form MA2) and obtain 4 completed client evaluation forms (Form MA3) at the end of the mediation and forward these to the Supervisor.
- (g) The responsibility for obtaining the client evaluation forms (Form MA3) is on the candidate.

Stage 3

- (a) Satisfactory completion of an advanced family mediation training course

approved by the LSHK. Stage 3 may be completed before Stage 2.

STAGES 1 – 3 ARE TO BE COMPLETED WITHIN A 4-YEAR PERIOD.

Stage 4

- (a) Within 4 years after completion of stages 1, 2 and 3 candidates may apply to the LSHK Mediator Accreditation Committee for accreditation using Form MA1. The Supervisor's signed evaluation sheets (MA4) together with client evaluation sheets (MA3) and self-evaluation sheets (MA2) shall be submitted at the same time.
- (b) Prior to accreditation being approved, a candidate for mediation accreditation may be called by the LSHK Mediator Accreditation Committee to take part in an accreditation assessment including a personal interview, and a possible further simulation supervised by an accredited supervisor chosen by the LSHK Mediator Accreditation Committee, who must submit a completed Form MA4 in connection with the further simulation.

Candidates who are accredited will have their names included on the relevant LSHK Panel of Accredited Mediators, subject to complying with all the above requirements.

4. Requirements to be an Accredited Family Mediation Supervisor

- (a) The applicant must be accredited by the LSHK as an Accredited Family Mediator.
- (b) The applicant must demonstrate sufficient experience in the field of family mediation by way of an application using Form MA1.
- (c) By way of guidance, it is unlikely that an applicant will be considered to have demonstrated such experience if such applicant cannot show that he/she has acted as a mediator in at least 10 family mediation cases.
- (d) Specific exemption from the above requirements will be granted to those applicants who are, at the time of the application for accreditation as a Family Mediation Supervisor by LSHK, accredited as a Family Mediation Supervisor by the following bodies:
 - (i) The Hong Kong International Arbitration Centre (HKIAC)
 - (ii) Any other body approved by the Mediator Accreditation Committee.

5. Exemption

- (a) Candidates who can demonstrate sufficient mediation experience may be granted an exemption by the Mediator Accreditation Committee from any or all of the stages of the accreditation requirements.
- (b) A request for exemption must be made in writing to the Mediator Accreditation Committee and accompanied by all relevant supporting documentation. Specific exemption will be granted from the requirements of attending mediation training courses (Stage 1 and, for Accredited Family Mediators, Stage 3) and all requirements of Stage 2 accreditation requirements for Accredited General Mediators and Accredited Family Mediators, to members of the LSHK who have been, prior to the date of application for accreditation as a mediator by LSHK, accredited as mediators of the relevant Panel by the following bodies:
 - (i) The Hong Kong International Arbitration Centre
 - (ii) Centre for Effective Dispute Resolution (“CEDR”)
 - (iii) Any other body approved by the Mediator Accreditation Committee.
- (c) A candidate who has completed an LSHK approved family mediation training course (including both the basic and advanced courses) is eligible to undertake the LSHK General Mediator assessments.
- (d) A candidate who has completed only an LSHK approved basic family mediation training course is not eligible to undertake the LSHK General Mediator assessments unless he has completed a bridging course or practice session in the context of general mediation as directed and approved by LSHK.
- (e) A Family Mediator accredited by LSHK or The Hong Kong International Arbitration Centre is eligible to apply for accreditation as a General Mediator on the basis of his accredited Family Mediator status.

6. Panel membership

- (a) The lists of Panel Members are maintained by the LSHK and are available on the LSHK web site (www.hklawsoc.org.hk) and at the reception counter of the Society’s offices.
- (b) Successful candidates will be required to provide a panel reference c.v. as per Form MA5 (at **Appendix 5**). It is desirable that the reference be completed in both English and Chinese.
- (c) Panel membership will be for a 4-year period.

The Law Society of Hong Kong

- (d) Panel members are required to apply for renewal of accreditation every 4 years. An administrative fee (set out on page 10) is payable upon renewal application.
- (e) To coincide with the practice year cycle, renewal accreditation shall commence from 1 January. All renewal applications should therefore be made before 30 November the preceding year.
- (f) all accreditation granted:
 - (i) before 1 July will be due for renewal on 1 January four years after the year of accreditation;
 - (ii) on or after 1 July will be due for renewal on 1 January five years after the year of accreditation.

7. CPD requirements

Renewal of membership will be subject to the Panel member demonstrating to the LSHK Mediator Accreditation Committee that he has undertaken or has been exempted from the CPD requirements as set out below:

- (a) It is desirable that LSHK Accredited Mediators on both the General and Family Panels be considered to be of high quality and be seen as having met established standards of training. It is also desirable that these standards be upheld even after accreditation, and in this regard CPD for LSHK Accredited Mediators is considered to be an important element.
- (b) The CPD requirements herein are intended to be realistic and are the minimum requirements which LSHK Accredited Mediators are expected to meet. LSHK Accredited Mediators are encouraged to exceed the minimum requirements whenever possible.
- (c) LSHK Mediator Accreditation is for a 4-year period and renewal of such accreditation is subject to, among other things, that the LSHK Accredited Mediator seeking renewal of his accreditation has undertaken, out of his CPD requirement, a total of at least 20 CPD points in mediation training during the 4 immediately preceding CPD years. The 20 CPD points on mediation training obtained during the 4 CPD years prior to renewal shall exclude the CPD points obtained from the training course(s) that fulfilled the training requirements in Stage 1 (General and Family) and Stage 3 (Family) of the requirements to be an LSHK Accredited Mediator. Exemptions from the CPD requirement in mediation training may be granted by the LSHK Mediator Accreditation Committee on a case-by-case basis where exceptional circumstances exist and where it is fair and

The Law Society of Hong Kong

reasonable to do so.

- (d) The LSHK will organise as many activities as possible in order to assist LSHK Accredited Mediators meet their CPD requirements. Compliance may be achieved through a variety of approved activities, and not exclusively through activities sponsored by the LSHK.
- (e) The LSHK's Mandatory CPD Training Record shall be used by LSHK Accredited Mediators:
 - to provide a detailed record of compliance with the LSHK Accredited Mediator's CPD requirements;
 - to provide each LSHK Accredited Mediator with a personal development record;
 - to be submitted to the LSHK Mediator Accreditation Committee for review for purposes of the renewal of accreditation.
- (f) Each LSHK Accredited Mediator shall be responsible for the accurate maintenance of his Training Record and will be required to submit his Training Record at the time he seeks renewal of his accreditation. There will be no fee charged for the review of the Training Record, the cost of such review being included in the administrative fee paid by each LSHK Accredited Mediator upon application for renewal of membership. Accurate recording and maintenance of the Training Record is important in order to comply with the CPD requirements.

Each LSHK Accredited Mediator must include all relevant details of all events and activities in the Training Record which will count toward compliance with the CPD requirements.

Training Records may also be reviewed or checked at random. When the Training Records are due for submission and review, such review will be carried out by the LSHK Mediator Accreditation Committee. No later than 2 months after a Training Record has been duly submitted by a LSHK Accredited Mediator to the LSHK Accreditation Committee, the Training Record will be returned to the LSHK Accredited Mediator in question with an indication that either:

- (i) the Training Record has been duly and properly maintained and that the CPD requirements have been met for purposes of the renewal of accreditation; or
- (ii) the Training Record has not been duly and properly maintained or, if duly and properly maintained, the CPD requirements for the

purposes of the renewal of accreditation have not been met.

In the event that accreditation of a LSHK Accredited Mediator is duly renewed, the Training Record will be returned to the LSHK Accredited Mediator in question.

In the event that accreditation of a LSHK Accredited Mediator is not duly renewed as a result of the situation referred to in (ii) above, the LSHK Accredited Mediator in question will be given clear comments and advice on what action is necessary to rectify the situation.

- (g) The purpose of the CPD requirements is to enhance the skills and knowledge of LSHK Accredited Mediators.

Suggested areas for further study and/or training, include:

- Communication skills
- Negotiation
- Problem-solving
- Other mediation training (Family, Community, Environment, Cross-culture)
- Partnering /alliance-building
- Advanced mediation skills
- Other dispute resolution processes
- Conflict management / avoidance

Suggested areas for further study specifically for LSHK Accredited Family Mediators include:

- Domestic violence
- Child Abuse
- Child-care & child development
- Psychological process of separation and divorce
- Appropriate arrangements for custody, care, control and access
- Step-parenting / families
- Co-parenting
- Local policy in practices e.g. Housing, Insurance, Taxation & C.S.S.A.
- Special knowledge in solving financial disputes.

8. Fees

Inclusion on a LSHK Panel of Mediators will be subject to an application assessment fee per category of assessment and an administrative fee for renewal of membership per category payable every 4 years upon application for renewal

The Law Society of Hong Kong

of membership to a particular panel, as set out in the following fee schedule.

Fee Schedule

Note: Any and all of the fees are subject to change at the discretion of the LSHK.

	General / Family (Fees in HK\$)
Application assessment / re-assessment fee per assessment / re-assessment (<i>non-refundable</i>)	\$500*
Administrative fee for renewal of membership per category payable every 4 years upon application for renewal of membership to a particular panel	\$500*
Maximum supervision fee	\$800 per hour subject to a maximum supervision fee of \$8,000 per case

* Cheques to be made payable to "The Law Society of Hong Kong".

III. ACCREDITATION OF MEDIATION TRAINING COURSES

1. Criteria of approval

- (a) The mediation training course must:
 - (i) be relevant to the immediate or long term needs of mediators;
 - (ii) be of significant intellectual and practical content;
 - (iii) deal primarily with matters related to the practice of mediation.
- (b) The Committee will take into account the following:
 - (i) the dates of the proposed course;
 - (ii) the content of the proposed course;
 - (iii) the proposed course structure day-by-day, including how many hours of lectures and simulations per day;

The Law Society of Hong Kong

- (iv) the name and qualifications of the course trainers, including their mediation training record, mediation experience and the amount of time each of the them will actually spend providing training during the course in question;
- (v) the names and numbers of coaches, their qualifications including for each individual their mediation training record, mediation experience and the amount of time they will actually spend coaching during the course in question;
- (vi) the maximum number of participants in the proposed course;
- (vii) the number and length of role plays in the proposed course, with a brief description illustrating the training objective of each and details of how each stage of the process is covered;
- (viii) the methods by which the role plays will be monitored by the course trainers and coaches and how the individual course participants will be coached or provided with feedback;
- (ix) whether a certificate is issued to “successful” course participants (including a definition of what “successful” means) and what is the content of such certificate, if any; and
- (x) the method by which a course participant will provide feedback to the course provider and how such feedback is to be used by the course provider.

2. Application

In order for a course to be accredited as a mediation training course for the purpose of satisfying Stages 1 and 3 of the accreditation requirements for the LSHK accredited general mediators and accredited family mediators, an application for accreditation of each course must be made by the provider of the course to the Mediator Accreditation Committee. The application must be made on the Society's standard form and sent to the Assistant Director, Professional Development at least **4 weeks** before the scheduled date of the course. If the application is incomplete, accreditation may take 4 weeks from the date of submission of the complete application.

All changes to the information submitted to the Society in relation to an application for CPD course accreditation shall be notified to the Society as soon as the changes are made and in any event prior to the commencement of the course. The Society has the right to withdraw accreditation on the basis of the changes made to the course.

3. No Retrospective Accreditation

It is not possible to accredit after any course has taken place.

4. Documents and Information Required on Application for Course Accreditation

- (a) a **detailed outline** of what will be covered in the course and by whom
- (b) a **programme** showing the sequence of speakers, the method of teaching, eg. lecture, participatory case study, role-play, discussion, question and answer, and the amount of time which each person will spend on each area
- (c) the training objective of each role play included in the course and how each stage of the process is covered
- (d) the methods by which the role plays will be monitored by the course trainers and coaches and how the participants will be coached and provided with feedback
- (e) an outline of the **course materials** which will be provided to participants
- (f) a brief up-to-date **resume** of each speaker's professional qualifications, legal background and any teaching and mediation training experience which they each have.

5. Administrative Matters

- (a) Where the provider is also applying for CPD accreditation on a course-by-course basis, the provider is required to:
 - (i) submit the application form (**Appendix 6**) and supporting documents in duplicate to enable the application to be processed separately by the CPD Accreditation Sub-Committee for the award of CPD points and the Mediator Accreditation Committee for accreditation as a mediation training course; and
 - (ii) pay a separate fee for each of the applications for CPD accreditation and mediation training course accreditation.
- (b) Where the provider is an accredited provider of CPD courses, the provider is required to comply with the CPD accreditation procedures applicable to accredited providers.

The Law Society of Hong Kong

- (c) Where the course is accredited with CPD points, the provider must comply with the CPD requirements.

All providers should note the attendance policy and policy on segmented accreditation of CPD courses contained in pages 41 to 44 of the CPD Information Package.

All computerised attendance records generated from a computerised scanning system in respect of an accredited course must be forwarded to the Assistant Director, Professional Development within **7 days** of the course in order for the participants to gain their points.

- (d) All accredited courses must be evaluated by the participants attending the course in a manner approved by the Society.
- (e) All providers shall promptly submit a full set of the course materials to the Law Society upon request by the Law Society at any time after the application for accreditation has been submitted or within a reasonable period after the course is held.

A summary of the evaluation forms must be forwarded to the Assistant Director, Professional Development within 7 days of the course.

6. Prescribed Fee

A fee, at the rate prescribed by the Council from time to time, will be charged on an application for accreditation of a mediation training course. The fee currently prescribed by the Council is HK\$2,000 per course.

7. Monitoring of Accredited Courses by the Law Society's Representatives

All providers shall permit any person nominated by the Society to attend any mediation training course free of charge for the purposes of monitoring and evaluating the course.

IV. GUIDELINES AND CODE

1. Ethical Code for Mediators

A. General Responsibilities

Mediators must act fairly in dealing with mediation participants, have no personal interest in the terms of any settlement agreement, show no bias toward individuals or institutions involved in mediation, be reasonably available as requested by mediating parties, and be certain that the parties are informed about the mediation process in which they are involved.

B. Responsibilities to the Parties

1. Impartiality. The mediator must maintain impartiality toward all parties. Impartiality means freedom from favouritism or bias either by word or by action, and a commitment to serve all mediation participants as opposed to a single party. The mediator should disclose to the participants any affiliations which the mediator may have or have previously had with any participant and obtain all parties' consent to proceed as mediator.
2. Informed Consent. The mediator has an obligation to ensure that all parties understand the nature of the mediation process, procedures to be utilised and the particular role of the mediator. Each party's consent to proceed with mediation should be obtained prior to the beginning of substantive negotiations.
3. Confidentiality. The mediator shall inform mediation participants of the degree to which communications connected with the mediation process shall be confidential, including any special confidentiality which attaches to private meetings (caucuses).
4. Suspension or Termination of Mediation. The mediator should inform the mediation participants of their rights to withdraw from mediation at any time and for any reason. If the mediator believes that participants are unable or unwilling to participate effectively in the mediation process, the mediator should suspend or terminate the mediation.

C. Defining the Process

1. Comparison to Other Processes. The mediator shall explain that mediation is not arbitration, legal representation, or therapy and that the mediator will not decide any issues for the parties.
2. Independent Advice and Information. In mediations in which disputants personally represent their own individual interests and substantial legal issues exist, the mediator shall encourage the

participants to obtain individual legal advice as is reasonably necessary for the parties to reach an informed agreement.

3. Conflicts of Interest. A mediator shall disclose all actual and potential conflicts of interest reasonably known to the mediator. After disclosure, the mediator shall decline to mediate unless all parties choose to retain the mediator.
4. Opportunity for Full Expression of Interests. The mediator shall seek to provide each mediation participant with a full opportunity to effectively express his interests.
5. Fees. The mediator has a duty to define and describe any fees for the mediation and to agree with participants as how fees are to be shared and the manner of payment before proceeding to facilitate substantive negotiations. It is inappropriate for a mediator to charge contingent fees or to base fees upon the outcome of a mediation.
6. Additional Representation or Roles. A mediator shall not engage in any non-mediational role relative to the subject matter of a mediated dispute, except by the informed written consent of all mediation participants.

D. Responsibilities to the Mediation Process and the Public

Mediators are regarded as knowledgeable in the process of mediation. They have an obligation to use their knowledge to help educate the public about mediation; to make mediation accessible to those who would like to use it; to correct abuses and to improve their professional skills and abilities.

2. Guidelines for Professional Practice of Family Mediators

For the purpose of this Code of Practice, family mediation has been defined as follows:

“Family Mediation is a non-adversarial, co-operative decision-making process in which a qualified and impartial third party, “the mediator”, helps family members resolve by agreement their disputes, including but not limited to those arising from separation or divorce. The resolution is to be voluntary and based upon sufficient information and advice for each party.”

For the purpose of this Code of Practice the term mediator should be read as

including mediators in the context of co-mediation.

Code of Practice

A. Pre-Mediation Process

The mediator shall explain the mediation process clearly to the parties at a pre-mediation session before agreeing to mediate their dispute. In particular, the mediator shall:

1. Introduce the aims, objectives, principles and working procedures of mediation to the parties and describe the differences and similarities between mediation and other procedures for dispute resolution. In so doing, the mediator shall distinguish it from therapy, counselling, custody evaluation and advocacy.
2. Use his or her professional skills to make an assessment with the parties about their level of readiness for mediation. When one or both parties emotions are too intense or when there is a severe power imbalance, for example situations involving domestic violence, mediation may not be suitable.
3. Elicit sufficient information from the parties so that they can mutually define and agree on the issues to be resolved in mediation.
4. Advise the parties that either of them or the mediator has the right to suspend or terminate the mediation process at any time.
5. Disclose to the parties any biases or strong views he or she holds relating to the issues to be mediated and to discuss whether it is appropriate for him or her to mediate the dispute.
6. Advise the parties of the mediator's level of educational qualifications, training and experience.
7. Discuss with the parties the specific procedures and practices of mediation and reach an understanding with them regarding those to be followed in mediation. This includes, but is not limited to, the practice as to separate meetings between one party and the mediator, confidentiality, use of other professional services, the involvement of additional parties, and conditions under which mediation may be terminated.
8. Advise the parties that the following exceptions shall apply to the confidentiality duty:-

- (a) When there is the written consent of all parties.
 - (b) When the information discloses an actual or potential threat to human life or safety. In particular the mediator shall advise the parties of the mediator's overriding duty to protect the best interests of the children.
9. Advise the parties of the role of legal advice in the mediation process. As a mediator who is also a lawyer, he or she shall inform the parties that he or she cannot represent either or both of them in any related legal action, nor can he or she give them legal advice during the mediation process.
10. Where financial or property issues are to be mediated, obtain an undertaking from the parties to make full and frank disclosure of their financial and related circumstances prior to commencing the mediation process. The mediator shall make it clear to the parties that he or she has no power to make independent enquiries or require verification to be given in relation to any such financial disclosure. The mediator shall also make it clear that each party may obtain independent legal advice as to the adequacy of the disclosure and whether the swearing of an affidavit disclosing their financial circumstances is required.
11. Make explicit the fees of mediation and any related costs and reach an agreement with the parties on how the costs will be shared and the manner of payment. When settling fees, the mediator shall ensure they are explicit, fair, reasonable and commensurate with the service to be performed. It is inappropriate for the mediator to base fees on the outcome of the mediation process. When a deposit has been collected before mediation services are rendered, any unearned fees shall be promptly returned to the parties upon the termination of mediation.
12. Arrange for an agreement regarding the duties and responsibilities that each is accepting in the mediation process, to be written and signed by the parties and the mediator.

B. Mediation

1. Goal of Process and Responsibilities of the Parties and the Mediator

The Law Society of Hong Kong

- (a) Mediation is a voluntary process with the responsibility for the resolution of a dispute resting with the parties.
- (b) The mediator's role is that of a facilitator with the primary responsibility being to assist the parties to reach an informed and voluntary settlement. At no time shall the mediator make a substantive decision for any party or coerce the parties into an agreement.
- (c) The goal of family mediation is a fair, mutually satisfactory, durable and harmonious resolution of the issues, not a settlement at any cost. If it is assessed that the parties are unable or unwilling to meaningfully participate in the process, the mediator may suspend or terminate mediation and refer the parties for appropriate professional assistance.
- (d) The mediator has a responsibility to promote the parties' consideration of the best interests of their children and in this regard the role of other persons in relation to the children (such as grand-parents or step-parents).

2. Ensuring Fair Mediation

- (a) The mediator shall endeavour to ensure that the parties reach agreement freely, voluntarily, without undue influence and on the basis of informed consent.
- (b) The mediator shall ensure that each party has had an opportunity to understand the implications and ramifications of available options. In the event that a party needs either additional information or assistance in order for the mediation to proceed in a fair and orderly manner, or for an agreement to be reached, the mediator shall refer the parties for this additional information or assistance.
- (c) The mediator has a duty to ensure balanced mediation and shall not permit manipulative or intimidating negotiating techniques.
- (d) The mediator shall take note of the fact that one of the parties may attempt to use the mediation process as a tactic to establish a status quo which is to the detriment of the other party.
- (e) Potentially unfair agreements, evolving from a power imbalance shall be discouraged and mediation may need to be suspended.

3. Duties regarding Information, Disclosure and Advice

The Law Society of Hong Kong

- (a) It is the duty of the mediator to actively encourage the parties to make decisions based on sufficient information, knowledge and advice. This includes assisting the parties to obtain independent expert information and advice.
- (b) When the mediation may affect legal rights and obligations, the mediator has an ongoing obligation to advise the parties to obtain independent legal advice where appropriate during the mediation process.
- (c) The mediator shall ensure that both parties are given an opportunity during the course of the mediation to make enquiries about the financial disclosure given by the other, and to request any additional information and documents that may be required.

4. Duties regarding Impartiality

- (a) The mediator shall maintain impartiality. Impartiality implies a commitment to aid both parties by freedom from favoritism or bias either in word or action. Impartiality means that the mediator will not play an adversarial role.
- (b) The mediator has a responsibility to maintain impartiality while raising questions as to the fairness, equity, and feasibility of proposed options for settlement.
- (c) A mediator shall guard against becoming partial as a result of a power imbalance between the parties.
- (d) The perception by one or both the parties that the mediator is partial does not in itself require the mediator to withdraw, but in such circumstances, the mediator shall remind both parties of their right to terminate the mediation.
- (e) The mediator shall disclose to the parties any biases he or she may have relating to the issues to be mediated and any circumstances which might constitute or cause a conflict of interest, real or perceived, to arise. Such disclosure shall be made as soon as the mediator recognises the potential of any bias becoming operative or any conflict of interest arising.

5. Duties regarding Neutrality

- (a) If the mediator believes that the mediator's background or personal experiences would prejudice his or her performance, the mediator shall withdraw from mediation. If either of the parties states that he

or she believes that the mediator's background or personal experience would prejudice the mediator's performance, the mediator shall remind the parties of their right to terminate the mediation.

- (b) The mediator shall refrain from mediating in cases where there has been any significant prior personal or professional involvement between the mediator and one of the parties, unless every party expressly consents to the mediation proceeding after there has been full disclosure of such prior involvement. In this case, the mediator shall carefully distinguish his or her role qua mediator from the earlier relationship.
- (c) A mediator, or any partner or employee of the same firm of such mediator, shall not represent either party during or after the mediation process in any related legal matters arising out of the issues discussed in the mediation.
- (d) The mediator shall be aware and advise the parties that post-mediation professional or social relationships may compromise the mediator's continued availability as a neutral third party.
- (e) The mediator shall be sensitive to the ethnic, cultural and gender diversity of all parties to the mediation.

6. Duties regarding Confidentiality, Privileges, and Release of Information

- (a) Any information received by the mediator shall be confidential and shall not be revealed to anyone outside the mediation sessions.
- (b) Information received in an individual session is not to be revealed in joint sessions without receiving the prior consent of the relevant party to disclosure.
- (c) The following exceptions shall apply to the confidentiality duty:
 - (i) When there is the written consent of all parties.
 - (ii) When the information discloses an actual or potential threat to human life or safety. Any information divulged shall be limited to what is absolutely necessary.
- (d) The mediator and his or her staff shall maintain confidentiality of clients' files.
- (e) All discussions and negotiations are to be held on a "privileged" or

“without prejudice” basis and the parties are to be required to agree not to refer to any such discussions and negotiations in any proceedings that may subsequently take place, or to require the mediator to do so; save for any discussions or negotiations which both parties agree with the mediator are to be on an open basis. The same rule shall apply to the mediator’s notes, and neither party may have access to the mediator’s notes save those relating to any discussions or negotiations which both parties agree with the mediator are to be on an open basis.

- (f) The mediator shall not agree to attend any court hearing without the consent of both parties unless compelled to do so by a subpoena issued by the court. If subpoenaed the mediator shall claim privilege when called to give evidence in order to resist disclosure of confidential information. The mediator shall only give evidence and/or produce documents when ordered by the court to do so at the hearing.
- (g) Information arising from mediation may be used in teaching and/or writing but must be adequately disguised so as not to reveal the identity of the parties involved.

7. Duties regarding Inter-Professional Relations

- (a) The mediator shall respect the complementary relationships among mediation, legal, mental health and other social services. He or she shall promote cooperation with other professionals and encourage clients to use other professional resources when appropriate.
- (b) Where there are co-mediators each has the responsibility to keep the other informed of developments in the mediation process.
- (c) During mediation, the mediator shall carefully avoid any appearance of disagreement with or criticism of his or her co-mediator.

8. Duties regarding Settlement or Termination

Settlement

- (a) The mediator shall prepare a written summary of the agreement, whether partial or complete, for the approval of and signature by the parties and the mediator. Such agreement shall not be legally binding on the parties and shall clearly so state.
- (b) The mediator shall advise the parties of their right to have the

agreement formalised by their respective solicitors.

- (c) When the parties reach a partial agreement, the mediator shall discuss with them alternative procedures available to resolve the remaining issues and make referrals where appropriate.

Termination

- (a) Mediation is voluntary and either party or the mediator can terminate it at any time.
- (b) It is the right of the mediator to suspend or terminate mediation in the following circumstances:-
 - (i) Whenever the continuation of the process is likely to harm or prejudice one or both of the parties or the best interests of the children.
 - (ii) Where the parties are unwilling or unable to meaningfully participate in the process.

In either of the above circumstances the mediator shall encourage the parties to seek appropriate professional help.

- (c) If the parties reach an unresolvable impasse, the mediator shall not prolong unproductive discussions that would result in emotional and monetary costs to the parties.
- (d) The mediator has a duty not to withdraw his or her services except for good cause and upon reasonable notice to the parties.

C. Ancillary Matters

1. Duties regarding Training and Education

- (a) Mediators shall acquire substantive knowledge, training and procedural skills in accordance with the requirements of the Mediator Accreditation Committee.
- (b) Mediators are required to engage in continuing education to ensure that their mediation skills are current and effective.
- (c) Mediators are encouraged to join with other mediators and members of related professions to promote mutual professional development.

2. Duties regarding Advertising and Promotional Activities

- (a) When advertising professional services, mediators, being solicitors, shall ensure compliance with the Solicitors' Practice Promotion Code. They shall restrict themselves to matters which educate and inform the public. These could include the following information to describe the mediator and the services offered: name, address, telephone number, office hours, relevant academic degree(s), relevant training and experience in mediation, appropriate professional affiliations and membership status, advantages of the mediation process, and any additional relevant or important consumer information.
- (b) Mediators are encouraged to promote the advancement of mediation by participating in research, publishing, and other forms of professional and public education.

3. Duties regarding Insurance

Mediators shall ensure that they are covered to a reasonably sufficient extent by professional indemnity insurance in their capacities as mediators.

3. Guidelines for Supervision of Trainee Mediators

NOTE: For the Purposes of this document, the term "Supervisor" shall refer to an LSHK Accredited Family Mediator/Family Mediation Supervisor & the term "Trainee Mediator" shall refer to persons who have completed the LSHK accreditation training requirements for Family Mediators and are undertaking the actual case supervision requirement to complete Stage 2 of the LSHK Family Mediator accreditation procedures.

- 1. The Parties should be advised that the Trainee Mediator is not accredited.
- 2. Parties should be told that the Trainee Mediator has completed training but needs to complete the accreditation component of live case supervision.
- 3. The Supervisor has the responsibility to explain to the parties that the Trainee Mediator will be responsible for conducting the mediation, however it will be on a co-mediation basis, such that the Supervisor can monitor and intervene where necessary.
- 4. Both the Supervisor and Trainee Mediator should obtain the parties permission (preferably in writing) regarding clauses 1, 2, and 3 prior to commencing the mediation.

The Law Society of Hong Kong

5. A different Supervisor should be used for each of the two supervised cases.
6. The Supervisor is ultimately responsible for the protection of the parties and ensuring that the mediation is conducted as per the Code of Practice for Family Mediators.
7. A borderline assessment/evaluation of the Trainee Mediator's performance should be considered as a "no" recommendation as per the Assessment Form.
8. A written Supervisor/Trainee Mediator contract should be used to make explicit the terms for the supervision.
9. The Supervisor should take the responsibility of supervising Trainee Mediators in good faith and should be as independent and as fair minded as possible.

A. Guidelines for Supervisor

1. Prior to Commencing the Mediation
 - (a) Prior to accepting a Trainee Mediator, the Supervisor must ensure that they have the time and commitment to undertake this responsibility.
 - (b) Check with Trainee Mediator before case allocation what times he/she can commit to the mediation proper and supervision/debrief sessions and do not accept Trainee Mediator if times are not mutually convenient or are inflexible. (E.g. the Trainee Mediator is only available one evening per week.) Do not underestimate how difficult it is to co-ordinate times with both the parties that also suit yourself and the Trainee Mediator. Time availability and flexibility are important.
 - (c) Mutually agree that the Trainee Mediator will complete the whole mediation if appropriate, including drafting the Settlement Agreement and post mediation follow-up.
 - (d) Agree on a mutually acceptable venue. This is generally more convenient for the Supervisor if the venue is at his/her place of work.
 - (e) If there is an additional cost associated with the venue for the supervised mediation, responsibility for this cost should be negotiated between the Supervisor and Trainee Mediator prior to

commencement.

- (f) It is the Supervisor's responsibility to ensure that they have up to date information regarding accreditation procedures and the latest Evaluation/Accreditation Forms. The Supervisor should also check the Trainee Mediator has obtained their own copy of these from LSHK so that everyone is aware of the criteria being used for the evaluation.
- (g) The Supervisor will meet with the Trainee Mediator for a pre-supervision session (approx. half an hour) to clarify mutual expectations, goals and learning methods.
- (h) Discuss the terms of the Supervision Contract with the Trainee Mediator and sign. This should outline each parties' responsibilities, time, fees, payment method and venue for mediation and debriefing sessions. Both the Supervisor and the Trainee Mediator should sign a "Record of Hours" sheet at the conclusion of each mediation session. It will be the Supervisor's responsibility to maintain this record sheet.
- (i) The Supervisor will ensure that the Trainee Mediator has an appropriate Agreement to Mediate Contract to use. If mutually agreed, the Trainee Mediator can use the Supervisor's contract.
- (j) Parties should be initially assessed as appropriate for mediation by referral information/phone contact with the parties, prior to allocation by a Supervisor or acceptance by a Trainee Mediator.
- (k) If the Trainee Mediator brings his own case, the Supervisor should explain that suitability must still be assessed.
- (l) Both Supervisor and Trainee Mediator should be involved from the outset, i.e. they should participate in the intake or pre-mediation interviews. In the event that following this assessment the case is not suitable or is too difficult for a Trainee Mediator, even if the Trainee Mediator brought the case to the Supervisor, the Trainee Mediator will accept the assessment of unsuitability and not proceed. The Supervisor may invite the Trainee Mediator to proceed on the basis of either observing or co-mediating as the junior partner on a non-assessable basis, on the condition that they undertake to attend all the mediation sessions. In such case, the supervision fee for the intake and premediation sessions will be charged unless otherwise agreed.

2. Conducting the Mediation

- (a) Be available for a minimum of a half an hour consultation with the Trainee Mediator prior to each session to discuss the goals of the session and comediation roles.
- (b) Debrief immediately after each mediation session in person or by phone with the Trainee Mediator for a minimum of a half an hour to keep the Trainee Mediator informed of his/her progress/knowledge/skills/qualities, both demonstrated and required.
- (c) The Supervisor's feedback should concentrate on:
 - (i) the encouraging/positive aspects of the Trainee Mediator's performance together with some constructive criticism of the less appropriate/effective aspects of his/her mediator behavior.
 - (ii) feedback should be concrete, with specific examples, to make it relevant to the Trainee Mediator and easier for him/her to accept.
 - (iii) Do not form premature judgments on the reasons for the Trainee Mediator's performance when giving feedback but ask the Trainee Mediator to explain the rationale. His/her intention may have been appropriate but the strategy inappropriate, (eg. breaking a deadlock).
 - (iv) Deliver feedback using "I" messages so as to own the feedback and help the Trainee Mediator receive the feedback without becoming defensive.
 - (v) Be prepared to discuss, clarify and give examples if asked by the Trainee Mediator.
 - (vi) Be aware of your own reaction to the Trainee Mediator and maintain neutrality. Do not overprotect or expect too much.
 - (vii) Give feedback honestly and professionally.

3. After Settlement/Agreement Reached

- (a) Review and discuss the Draft Mediation/Settlement Agreement regarding the terms of the Settlement prepared by the Trainee Mediator prior to the parties' signing same. In the event that the

case does not reach Settlement, ask the Trainee Mediator to draft a mock Agreement and discuss same. The Supervisor will record these comments on the evaluation sheet.

- (b) Do final verbal evaluation debrief with Trainee Mediator after signing at a mutually convenient time for a minimum of a half an hour, or for such time as is necessary.
- (c) Prepare and discuss the Evaluation Form with the Trainee Mediator within one to two weeks of the final mediation session. Give the original of this to the Trainee Mediator and retain a copy for your own records.
- (d) Indicate clearly your recommendation as to whether the Trainee Mediator should be recommended for the Family Mediation Panel. If the evaluation is borderline, you should not make an affirmative recommendation and should explain to the Trainee Mediator the reasons for this.
- (e) Explain to the Trainee Mediator that it is his/her responsibility to submit this evaluation form, together with all other necessary documentation to the Mediator Accreditation Committee of the LSHK.

B. Guidelines for Trainee Mediators

1. Prior to Commencing Mediation Supervision

- (a) Obtain the current Accreditation criteria and a copy of the Evaluation Form from LSHK, such that you are aware of the Accreditation and Supervision/Evaluation criteria.
- (b) Contact the Supervisor, in writing if possible, with request for supervision, indicating availability.
- (c) Negotiate, agree and sign the Supervision Contract with the Supervisor regarding the fees, venue, times, etc. for the mediation.
- (d) Agree to abide by the Code of Practice of Family Mediators of LSHK.
- (e) Prepare an Agreement to Mediate Form or mutually agree to use the Supervisor's contract.
- (f) Attend a pre-supervision meeting with the Supervisor to clarify goals and mediation roles.

- (g) Be involved with the Supervisor in the mediation from the outset, including Intake or Pre-mediation sessions to assess case suitability and the nature of your future involvement.

2. During Supervised Mediation

- (a) Make yourself available at least a half an hour before the scheduled mediation appointment to set up the room and discuss roles and process for the session with the Supervisor.
- (b) Come prepared for the session with a plan. Do not expect the Supervisor to do this. You are responsible for the session and the conduct of the mediation.
- (c) Prepare any provisional drafts for approval by the Supervisor and fax or email same at least 48 hours ahead of the session.
- (d) Be available for debriefing sessions for a minimum of a half an hour or for such time as required by the Supervisor.
- (e) Be open to and accepting of debriefing comments:
 - (i) Accept feedback as information not personal criticism or judgment. Be open to the fact that this is a new process with new knowledge, skills, qualities for you. Regardless of one's own professional expertise, this new process must be learnt through experience and mistakes.
 - (ii) If you do not agree with or do not understand the feedback, ask for clarification and examples from the Supervisor or check with others if anyone else is present, (eg. one way mirror observation)
 - (iii) Demonstrate use of feedback in subsequent mediation sessions.
- (f) Pay agreed supervision fees at the conclusion of each session or as otherwise negotiated in the Supervision Contract.
- (g) Be responsible for any necessary liaison with lawyers or other experts and report same to the Supervisor prior to the commencement of the mediation session. Show any drafts of letters to the lawyers or other experts to the Supervisor prior to sending. Keep a record of time spent in liaison.

3. After Settlement/Agreement Reached

- (a) Prepare the Draft Mediation Settlement Agreement and send to the Supervisor at least 48 hours before the final mediation session for the Supervisor's comments.
- (b) Be available for a debriefing with the Supervisor for a minimum of a half an hour or such time as required by the Supervisor.
- (c) Be responsible for any necessary follow-up with the clients and legal representatives and report same to the Supervisor.
- (d) Give and obtain completed Client Feedback Forms from the parties for Accreditation purposes.
- (e) Be available for a final debriefing regarding supervision evaluation with the Supervisor at a mutually agreed time and for such time as required by the Supervisor.
- (f) It is the Trainee Mediator's responsibility to submit the Evaluation Forms and any necessary documentation to the Mediator Accreditation Committee of LSHK.

V. APPENDICES

THE LAW SOCIETY OF HONG KONG (LSHK)
MEDIATOR ACCREDITATION COMMITTEE

Application for Mediator Assessment: -

Please indicate category for assessment –

General []

Family []

Supervisor (Family) []

Name Mr/Ms/Miss/Mrs/Dr* ()
in English in Chinese

Date of Birth/Nationality

Firm/Company* Date of Admission

Correspondence Address

Contact Tel Fax Email

Language(s) / Dialect(s) Spoken and Written - please give details:
(Please indicate ability to mediate in any language)

General Qualification(s) / Degree(s) / Professional body(ies) (grade and year obtained):

Brief Employment Summary:

Table with 3 columns: From / To, Employer, Position/Description

*delete as appropriate
(01/06/2009)

MEDIATION RELATED TRAINING AND EXPERIENCE:

Mediation (or equivalent) training including trainer organisation, duration, etc
(Please include date(s), hour(s), trainer(s) and a copy of the certificate(s))

Details of any other relevant training, eg negotiation, counselling, partnering workshop(s)

Experience **as a mediator**, eg family, commercial or other - giving approximate date(s) and total number of mediation cases

Other mediation related experience (eg as Trainer, Coach, mini-trial)

Remarks: please provide any other relevant details not covered above

Notes : -

- 1 *Please fill in all sections in block letters and do not submit separate c.v. If there is insufficient space, provide details on a separate A4 sheet in the same format. In case any section of the form is not applicable, please put in N/A.*
- 2 *Applicants are advised to provide all the information requested in the relevant documents, where applicable, failing which the LSHK Mediator Accreditation Committee may refuse to process and consider their applications.*
- 3 *This form must be attached with a payment covering the assessment / re-assessment fee per category (non-refundable) and the annual standard fee for inclusion into LSHK's panel of accredited mediators as set out in the Fee Schedule on page 10. All fees must be paid in Hong Kong dollars, drawn on bank(s) in Hong Kong.*
- 4 *Upon satisfactory assessment and payment of necessary fees, accredited mediators are entitled to be included on the LSHK website listing. Would you like your details (name, telephone number, fax number, email) to be listed on the website.* Yes/No *

* delete as appropriate

PERSONAL DATA (PRIVACY) ORDINANCE NOTICE

Persons who supply data in their application to the Law Society of Hong Kong (LSHK) are advised to note the following points pursuant to the Personal Data (Privacy) Ordinance.

1. Personal data provided in this application form will be used solely for the purpose of assessment for accreditation as a Mediator, and in this connection the data herein will be dealt with by the LSHK staff and/or by the LSHK Mediator Accreditation Committee or other relevant LSHK Committee members.
2. After an application for assessment has been duly processed, the application papers of the candidates will be retained in a file established by the LSHK for each applicant. Such information will be retained by LSHK for as long as it deems necessary or useful.
3. Under the provisions of the Personal Data (Privacy) Ordinance, an applicant has the right to request access to, and the correction of, his/her personal data as retained by the LSHK. Applicants wishing to access or make corrections to their data should submit written requests to the Director of Compliance of LSHK.

Declaration

1. I have read and agreed to the Personal Data (Privacy) Ordinance Notice.
2. I authorise the LSHK, its staff, employees and/or members of the LSHK Mediator Accreditation Committee or other relevant LSHK Committees to deal with, utilise and/or assess the data submitted by me as may be required in connection with my application for accreditation as a mediator.
3. I understand that my data will become a part of the LSHK's files and may be used for all purposes deemed necessary or useful by the LSHK.
4. I declare that the information given in support of this application is accurate and complete. I understand that any misrepresentation will disqualify my application and may lead to revocation of my accreditation as a Mediator, should I be accredited.
5. I confirm that I am familiar with and will adhere to the LSHK Code of Practice for General/Family* Mediators.
6. Any information on this form may be made available by LSHK to third parties for the purposes of mediator assessment or selection.

Please sign below to confirm your agreement to the disclosure of the information contained in the application and your confirmation of its accuracy.

Signature: _____ **Date:** _____

Name (in print): _____

** Delete if and as appropriate*

LSHK MEDIATOR ACCREDITATION COMMITTEE

SELF EVALUATION FORM FOR A TRAINEE MEDIATOR
(to be completed for any live mediations)

Name _____

Type of Mediation _____ Duration of Mediations _____

Names of parties _____

Name of Supervisor(s) if appropriate _____

What did you do best?

What could you have done differently?

OTHER COMMENTS

Signed _____ Date _____

LSHK MEDIATOR ACCREDITATION COMMITTEE

EVALUATION FORM OF A TRAINEE MEDIATOR

(to be completed if an actual (real) mediation was conducted)

PARTIES (Male/Female)*

This form is to assist the Committee responsible for the accreditation of mediators to assess the ability of a candidate for accreditation and thus ensure that high standards are maintained. The co-operation of the parties in completing this form is highly appreciated.

Name of Trainee Mediator _____

Name of Supervisor _____

Did you feel heard?

Did you feel in control?

What did the trainee mediator do best?

What could the trainee mediator have done better or differently from your perspective as a party?

OTHER COMMENTS

Signed _____ Date _____

* delete as appropriate

LSHK MEDIATOR ACCREDITATION COMMITTEE

MEDIATOR ASSESSMENT PROCESS

(Note: In case any section of the form is not applicable, please put in N/A)

Mediator's Name: _____
 Name of Role-play/Case: _____ Date & Duration (Hours): _____
 Case involves child-related issues: **YES/NO*** **delete as appropriate*
 Parties: _____ / _____ Supervisor/Assessor: _____

Where 1 = excellent, 3 = average and 5 = did not achieve

1. Opening Statement	1	2	3	4	5	N.A.
Meeting, greeting, modes of address						
Positive Tone						
Explanation of Mediation						
• Role of Mediator						
• Confidentiality						
• Procedure to be followed						
Ground rules						
Checked Authority to Settle						
Answering Parties' Questions						

Comment(s) _____

The Law Society of Hong Kong

2. Joint Sessions	1	2	3	4	5	N.A.
Listening and attending						
Eye contact						
Note taking						
Acknowledgment of concerns						
Summary of the factors						
Use of clarifying questions						
Established a list of issues						
Identified common ground						
Use of listed issues						
Facilitated Negotiations						
• Separated people from problem						
• Focused on interests not positions						
• Facilitative rather than inquisitorial						
Allowed/encouraged direct communications						
Facilitated mutual understanding						
Maintained momentum in discussion						
Manages conflicts appropriately						

Comment(s) _____

3. Separate Meetings	1	2	3	4	5	N.A.
Procedure, confidentiality explained						
Relevant questioning						
Preparation for joint session						
Appropriate duration						
Kept confidentiality						

Comment(s) _____

4. Option Generation, Termination and Closure	1	2	3	4	5	N.A.
Appropriate timing of option generation						
Assisted parties to transfer identified issues and needs into questions for discussion						
Identify possible options						
Explore possible options						
Reality tested options						
Conveyed offers accurately						
Suggested Heads of Agreement						
Agreed on future action						
Contingency arrangements						
Ensured all issues were included (including for family mediation appreciation for the interest of unrepresented third parties, eg the children)						
Preparation of agreement (<i>attach agreement</i>)						
Commendation of parties						

Comment(s) _____

5. Process Strategy	1	2	3	4	5	N.A.
Effective strategy of caucuses, joint meetings and other process moves						
Appropriate timing of separate sessions						
Appropriate timing of joint sessions						
Aware of parties' needs						

Comment(s) _____

6. Skills and Behaviour	1	2	3	4	5	N.A.
Maintained impartiality						
Established rapport						
Maintained parties' trust						
Optimistic tone						
Listening skills						
Diplomatic skills						
Use of notes						
Acknowledgment of concerns						
Identified needs and interests						
Identified underlying issues						
Managed negative interactions and emotions						
Summaries						
Appropriate use of questions						
Reframing						
Doubt creation						
Appropriate body language						
Use of whiteboard/butcher's paper						
Refrained from advising						
Avoided domination						
Dealt with impasses						
Reality testing						
Persevering						
Maintained momentum						
Appropriately managed any power imbalances						

Comment(s) _____

Overall Comments on Mediator's Performance _____

Based on this performance, does the supervisor/assessor recommend the person being supervised / assessed should be accredited as a mediator by Law Society Mediator Accreditation Committee?

YES/NO*

** delete as appropriate*

What steps / professional development would you recommend the candidate to undertake?

Assessor's Signature:

Date: _____

SAMPLE

WONG John	
LLB Law Society of Hong Kong	← Qualification and Membership of Professional Bodies
Partner	← Present Position
Wong & Co.	← Name of Firm
Room 1221 Gloucester Tower, 11 Pedder Street, Central, Hong Kong	← Address
Tel: 2566-1234 Fax: 2566 5678 e-mail: john@wongco.com.hk	← Telephone Fax and e-mail
Date of Birth :19 June 1954 (optional)	← Date of Birth
Fluent in Cantonese, Mandarin and English	← Languages/Dialects Spoken to a level you could conduct a mediation in them
<u>Mediation Training</u>	
Mediation - LSHK mediation course Feb 1999 completed Appointed as mediator on 1 occasion 2 mediations on-going	← Mediator training ← Mediator Experience
CAREER	
1973 – 6 - LLB University of Hong Kong 1976 - PCLL University of Hong Kong 1976 – 78 - Trainee Solicitor Contract – Chan & Co., HK 1979 – 83 - Assistant Solicitor, Chan & Co., HK, practising mainly in family law. 1984 – 87 - Assistant Solicitor, Ng & Co. Family law practice 1988 – present - Partner, Wong & Co., HK Family law practice	← Career Details – give year, position held and organisation
<u>Other Relevant Experience</u>	← Other experience including negotiation, partnering etc
Negotiation - Law Society Negotiation Skills Workshops (Basic) & (Advanced), 1999 and 2000 completed	

**THE LAW SOCIETY OF HONG KONG
DEPARTMENT OF STANDARDS AND DEVELOPMENT**

APPLICATION FOR ACCREDITATION AS AN APPROVED MEDIATION TRAINING COURSE AND ACCREDITATION OF CPD POINTS[#]

<div style="border: 1px solid black; width: 100%; height: 100%;"></div> <p>Application Date</p>	<div style="border: 1px solid black; width: 100%; height: 100%;"></div> <p>Telephone Number of Applicant</p>	<p style="text-align: center;">FOR OFFICE USE</p> <p>Action taken on application:</p> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <input type="checkbox"/> Approved as a mediation training course </div> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <input type="checkbox"/> Credited with CPD points </div> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Comments (see attached):</p> </div>
<p>1. Name and address of Applicant (person completing the form)</p>		
<p>2. Sponsoring Organisation</p>		
<p>3. Title of educational activity</p> <p>* Category :</p> <p>* Code :</p> <p>Level: Basic / Advanced</p> <p>Language (Medium of Instructions) : English / Cantonese / Mandarin</p> <p>* Please see attached note</p>		<p>4. Date and location of presentation</p>
<p>5. Application Fee (attached, if applicable)</p> <p>- for mediation accreditation <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>- for CPD accreditation <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
<p>6. Name, professional/educational background, practical / teaching experience, mediation training record, mediation training experience and current employment of presenter(s) and coaches (short C.V.'s may be submitted in lieu of description)</p>		
<p>7. Please provide a complete description of all materials to be distributed to participants</p> <p><input type="checkbox"/> Looseleaf <input type="checkbox"/> Bound <input type="checkbox"/> Typewritten <input type="checkbox"/> Typeset Total Pages (estimated) _____</p>		

[#] If it is **NOT** intended that CPD points be applied for, please delete.
(01/06/2009)

The Law Society of Hong Kong

8. Description of physical facilities (check all that apply)

<input type="checkbox"/> Classroom Seating	<input type="checkbox"/> Theatre Seating	<input type="checkbox"/> Writing Surface available	<input type="checkbox"/> Other – describe:
--	--	--	--

9. Target Audience:

10. Estimated Number of Participants / Maximum number of Participants:

11. Method of evaluation of programme (check all that apply)

<input type="checkbox"/> Participant critique (Law Society form)	<input type="checkbox"/> Independent evaluation form	<input type="checkbox"/> Other – describe:
--	--	--

12. Has a course or any part of a course of a similar nature been offered and accredited as an approved mediation training course before? Yes No

If yes, please indicate title, dates and sponsoring agency _____.

Were the same presenters used? Yes No

If no, list new presenter(s) _____.

13. Has a course or any part of a course of a similar nature been offered and accredited with CPD points before? Yes No

If yes, please indicate no. of any CPD points awarded _____.

If yes, please indicate title, dates and sponsoring agency _____.

Were the same presenters used: Yes No

If no, list new presenter(s): _____.

14. I have reviewed the criteria for mediation training course and CPD accreditation and made them known to each of the presenters. Yes No

OUTLINE OF COURSE PRESENTATION

Please also provide detailed outline of course presentation on reverse side, and attach programme agenda / brochure.

15. Time during which each segment will be offered	Subject content of each segment	Presenter(s)	Teaching technique used in each segment	Total amount of time devoted to each segment
Registration fee to be charged your registrants in HK dollars: \$			Total hours (excl. breaks)	

16. State the training objective of each role play included in the course and how each stage of the process is covered.

17. State the methods by which the role plays will be monitored by the course trainers and coaches and how the participants will be coached and provided with feedback.

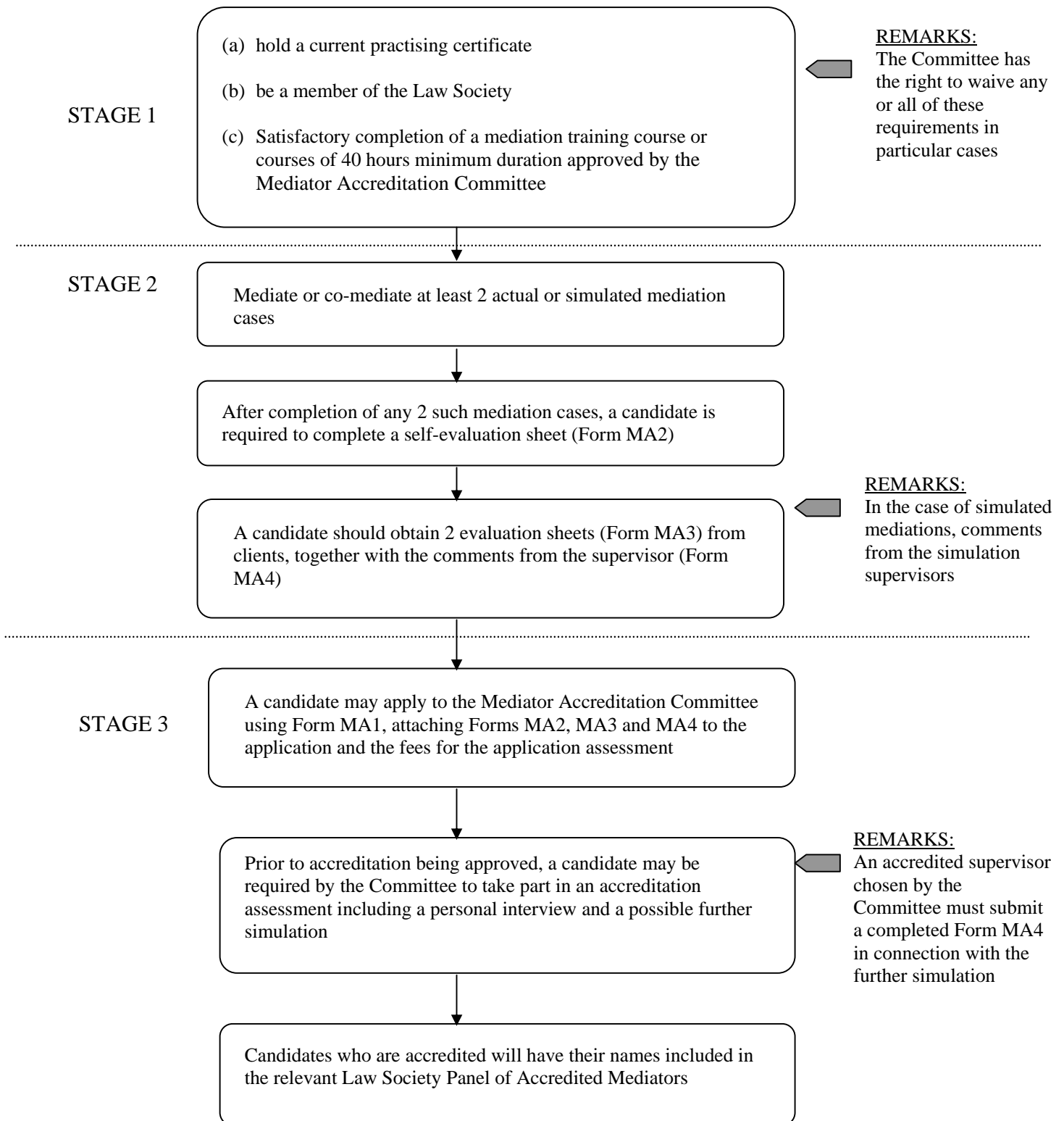
18. Will a certificate be issued to "successful" course participants?

Yes No

If Yes, attach a copy of the certificate and define "successful":

Requirements to be an Accredited General Mediator

In order to be accredited as a General Mediator, a candidate is required to complete the following 3 stages:



Requirements to be an Accredited Family Mediator

In order to be accredited as a Family Mediator, a candidate is required to complete the following 4 stages:

STAGE 1

- (a) hold a current practising certificate
- (b) have been engaged in the practice of law for at least 5 years on a full time basis or equivalent
- (c) demonstrate a sufficient involvement in the area of family law for 3 years prior to application
- (d) be a member of the Law Society
- (e) Satisfactory completion of a basic family mediation training course or courses of 40 hours minimum duration approved by the Mediator Accreditation Committee

REMARKS:
The Committee has the right to waive any or all of these requirements in particular cases

STAGE 2

Co-mediate 2 actual family mediations under the supervision of a supervisor

Notes:
The candidate may refer to the Law Society website for a list of Accredited Family Mediation Supervisor

A supervision fee will be paid by the candidate to the supervisor / supervisor's agency

After each mediation session, the supervisor will provide the trainee no less than 30 minutes feedback discussion and sign an evaluation form (Form MA4) within 14 days of the end of mediation

A supervisor will co-mediate or live supervise **only one case** with a candidate

The candidate will be required to complete a self-evaluation form (Form MA2) and obtain 4 completed client evaluation forms (Form MA3) at the end of the mediation and forward these to the supervisor

Each case shall be of a minimum of **five hours** and must be **sufficiently complex** for the candidate to **demonstrate the ability to manage emotional intensity and mediate complete financial and child-related matters.**

STAGE 3

Satisfactory completion of an advanced family mediation training course approved by the Law Society

REMARKS:
Stage 3 may be completed before Stage 2

STAGE 4

A candidate may apply to the Mediator Accreditation Committee using Form MA1, attaching Forms MA2, MA3 and MA4 to the application and the fees for the application assessment

Prior to accreditation being approved, a candidate may be required by the Committee to take part in an accreditation assessment including a personal interview and a possible further simulation

Candidates who are accredited will have their names included in the relevant Law Society Panel of Accredited Mediators