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**A STUDY ON FAMILY MEDIATION SERVICES  
IN HONG KONG**

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**A Study on Family Mediation Services  
in Hong Kong  
Final Report**

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## **EXECUTIVE SUMMARY (ENGLISH)**

1. This report presents the key points of the study titled “A Study on Family Mediation Services in Hong Kong” delegated by the Central Policy Unit. It summarizes the results of our data analysis from the Family Council Pilot Scheme and from a research study. It also highlights the main observations from the research study and concludes with our recommendations.
  
2. The official statistics gathered from the two-year Family Council-Pilot Scheme (phase one from August 2012 to July 2014 and phase two from August 2014 to January 2016) conducted by the Family Council showed that:
  - 2.1 During the first phase, a total of 263 cases had been subsidized for mediation service and the overall success rate was 47%; during the second phase, a total of 154 cases had been subsidized for the mediation service with the overall success rate being 75%.
  
  - 2.2 Four non-government organizations received government funding for the mediation services that they provided to the service users. On the whole, the Hong Kong Catholic Marriage Advisory Council took up over half of the cases (53%); the Hong Kong Family Welfare Society took up 38.6% of the cases; and the rest went to the Hong Kong Caritas and the Yang Memorial Methodist Social Service.
  
  - 2.3 Most of the service users had a monthly income below \$10,000, with the incomes of the males being higher than the female’s.
  
  - 2.4 The portion of male users who were not charged for the service decreased throughout the four years, from over 60% during 2012 - 2014 to less than 40% during 2015 - 2016; around two thirds of the female users were not charged any fee throughout the two phases.

2.5 In 2015, 47.83% of the divorcing/separating couples who used the mediation service reached a full agreement, 5.34% a partial agreement, and 23.91% no agreement. The success rate was higher in the second phase than it was in the first phase.

2.6 The average time spent on the preparation and mediation phases in 2015 was 5.27 hours and 7.34 hours respectively, which was a slight increase compared to what it was in 2012. The average total time spent ranged from 8.95 to 12.61 hours.

### **3. A Research Study**

3.1 A research study was conducted from July 2015 to June 2016 with the following objectives:

3.1.1 To identify and compare the profiles of service users (Family Council-sponsored cases and non-sponsored cases) in terms of their backgrounds and expectation of outcomes;

3.1.2 To compare the outcomes of using and not using family mediation services;

3.1.3 To examine the available resources and cost incurred;

3.1.4 To explore the issues of concern throughout the entire mediation process;

3.1.5 To probe into the factors affecting using or not using family mediation services and the respective outcomes thereof;

3.1.6 To gauge the outcomes of the mediation in terms of the agreement and partial agreement rates achieved.

3.1.7 To delineate how satisfied the users of the service are with the mediation process and with the outcomes of mediation.

3.2 In relation to the research methodology,

3.2.1 A mixed-methods design composing of a user satisfaction survey and interviews was adopted for the study.

3.2.1.1 A total of 205 questionnaires were collected, with 77 Family Council-sponsored cases and 128 non-sponsored cases.

3.2.1.2 A total of 100 informants were interviewed, including 40 service users (21 Family Council-sponsored cases and 19 non-sponsored cases), 10 children of service users (5 Family Council-sponsored cases and 5 non-sponsored cases), 8 non-service users, 29 family mediation supervisors and family mediators (12 handled Family Council-sponsored cases and 17 handled non-sponsored cases), and 13 stakeholders (2 experts, 6 service providers and 5 service referrers)

3.3 With regard to the survey, a summary of the highlights of the informants' profiles and the findings is shown below.

3.3.1 The main characteristics of the informants' profiles were:

3.3.1.1 45.6% were male service users and 54.4% were female service users. The median incomes of male and female users were between \$10,000 and \$20,000.

3.3.1.2 More than half of them had been educated up to senior high school (39.2% senior high school, 33.8% university and above)

3.3.1.3 Over 60% had full-time jobs and 16.7% were full-time house workers.

3.3.2 This survey has shown that:

3.3.2.1 Nearly half (43.6%) of the respondents used the free mediation service; 25% of them paid less than \$100 for the service; approximately ten percent (9.9%) paid \$501 or more for the service.

3.3.2.2 About half (51.7%) of the respondents reported having 1-2 individual sessions and 42.9% of them had 3-4 joint sessions.

- 3.3.2.3 About four fifths (79.5%) of the cases reached full agreement through family mediation, one fifth (18.5%) reported that a partial agreement was reached, while the rest (2%) reported no agreement reached.
- 3.3.2.4 Among the items fully agreed, childrearing and childcare arrangements accounted for the highest number (n= 128), followed by living expenses for child(ren) (n=122) and properties (n=120). For the service users reaching partial agreement, child-related issues including living expenses for child(ren) (n=30), childrearing and childcare arrangement (n=28) and parent-child-time (n=25) were the most easily reached agreements. For those respondents who reached no agreement, accommodation was found to be the most disputed issue (n=2).
- 3.3.2.5 Respondents usually had little knowledge of family mediation until they were referred to the service. The family court (32.7%) and social workers (22.9%) were identified as the primary sources of information. Promotional materials such as leaflets, pamphlets, or websites, however, only accounted for a small proportion of the sources (15.6%).
- 3.3.2.6 The service users had a high level of satisfaction with the service in general (Mean = 5.20<sup>1</sup>, SD = .61). Respondents also had a high level of satisfaction with the outcome of child custody (Mean = 4.98, SD = .79), the outcome of financial matters and properties (Mean = 4.65, SD = 1.06), the mediation process (Mean = 4.98, SD = .71), and the service (Mean = 5.31, SD = .63).
- 3.3.2.7 No significant difference between Family Council-sponsored cases and non-sponsored cases was found in terms of the above five domains.
- 3.3.2.8 Respondents from different socio-economic backgrounds did not differ in their opinions when it came to rating their satisfaction with the service on the survey.

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<sup>1</sup> The total score is 6.

- 3.3.2.9 The mean scores for the items questioning whether or not they trust the other party to comply with agreements on child custody and financial allotment were 4.83 and 4.87 respectively, indicating that the respondents on average agree with the statements.
- 3.4 The following are the key findings from the interviews arranged according to the different categories of informants.
- 3.4.1 In relation to the views of the *service users*, the overall feedback on the service was positive.
- 3.4.1.1 The service users perceived that mediation was beneficial in terms of 1) saving time and money, 2) minimizing their psychological stress during divorce, 3) obtaining useful information and advice for resolving the dispute, 4) getting emotional support, 5) facilitating the negotiation of matters between ex-spouses constructively and peacefully; as well as 6) enabling them to make decisions with autonomy.
- 3.4.1.2 The service users regarded the influences of mediation on relationships to be positive in relation to 1) restoring a better relationship with ex-spouses, 2) minimizing the negative impact of the divorce on their children, 3) setting a good example for their children by using peaceful means to resolve the conflict, 4) providing good grounds for co-parenting, and 5) relieving the distress of their family members.
- 3.4.1.3 They considered the mediators played a critical role in the process. The presence of a neutral and impartial third party in mediation served the functions of 1) providing guidance; 2) facilitating the equal participation of both parties; 3) offering new perspectives; and 4) ensuring users' privacy. The mediators also provided an occasion for the service users to express their emotions constructively and think rationally, as well as made referrals for them whenever necessary.

3.4.1.4 In relation to the logistic aspects of the service, the users appraised the service referral and coordination, the financial support, and the support services rendered to them and their children positively.

3.4.1.5 Many service users had only a limited knowledge of mediation before they used the service. Also, they had concerns about the compliance of their ex-spouses with the agreement, as the cases were closed once the agreement was reached.

### 3.4.2 Concerning the *children*:

3.4.2.1 Most children did not fully understand the functions of mediation and some of them expected that the mediators could repair their parents' marital relationship.

3.4.2.2 They perceived the benefits of mediation were 1) to let their parents resolve disputes peacefully; 2) to release their stress when faced with parental divorce; and 3) to be listened to by a mature and an impartial adult.

3.4.2.3 They highlighted the “dos and don'ts” when they were involved in the mediation process. They liked the caring attitude of a mediator and they felt they were being well-informed, but they disliked being asked questions in front of their parents during a mediation meeting.

### 3.4.3 Regarding the views of the *family mediators* and the *supervisors*:

3.4.3.1 There were three clusters of factors influencing the process and the outcomes of the mediations: 1) the user-relevant factors; 2) the qualities of the mediators and 3) the court relevant factors.

3.4.3.2 The mediators considered mediation had a positive impact on the service users and their relationship with their ex-spouses and children, as well as their friends and relatives. The service users themselves were able to restore their personal lives and move on after the disputes were settled, divorcing couples gained a better way of communication and set a basis

for co-parenting, and the children suffered less from the divorce of their parents and thus were enabled to face the family transition.

3.4.3.3 Due to concerns about confidentiality, it was not the usual practice for the mediators to follow up after the cases were closed. Through some occasional informal contacts with their ex-clients, the mediators were of the opinion that the overall compliance with the agreements among the clients was good, when compared to non-service users. Compliance with one-shot settlement issues (e.g., property, accommodation) was better than with ongoing issues (e.g., childcare arrangements) as the latter were influenced by many situational factors such as changes in the ex-spouses' financial condition (e.g., unemployment), living place (e.g. migration) or marital status (e.g., remarriage), as well as the changing needs of children (e.g., children transit from childhood to adolescence leading to increased financial demands).

3.4.3.4 Their overall comments on the service were positive, and in particular, the coordination and the referrals made by the Family Mediation Coordinator's Office. However, the mediators raised some concerns on issues regarding the financial subsidy, the service coordination and the scope of the service.

3.4.4 Concerning the *non-service users*:

3.4.4.1 Their reasons for not using the service included 1) they perceived advantages to using litigation; 2) the lack of knowledge of and access to family mediation services; 3) the uncooperative attitude of their ex-spouses; and 4) misunderstanding the nature of the service, thinking that it was for repairing the marital relationship with their ex-spouses.

3.4.4.2 They anticipated that they would gain some benefit from using family mediation in their situation in terms of their relationship with their ex-spouses, post-divorce adjustment and co-parenting.

3.4.5 The views of the service referrers and the service providers are highlighted below.

3.4.5.1 Concerning the *service referrers*:

3.4.5.1.1 The grounds for the referrals were 1) guided by Practice Direction 15.10<sup>2</sup>; 2) clients were involved in financial difficulties; and 3) cases with child-related disputes.

3.4.5.1.2 The potential benefits of mediation included 1) saved time and money; 2) increased the possibility of having a sustainable agreement; and 3) gave hope for preserving the relationships of the divorcing couples as well as their parent-child relationships.

3.4.5.1.3 They had concerns about various issues including 1) a lack of public knowledge of the service nature and accessibility; 2) a lack of referrers' knowledge of the nature of the service, the mediation process and the availability of financial subsidy schemes; 3) insufficient support services for private practitioners; 4) variations in the quality of mediators; 5) the importance of support services; and 6) service coordination.

3.4.5.2 Regarding the *service providers*:

3.4.5.2.1 They identified the recent development of the service with respect to its 1) service accessibility; 2) availability of financial subsidy schemes; 3) number of mediators; and 4) popularity of support services.

3.4.5.2.2 They encountered several difficulties when providing the service, including 1) a lack of long term financial support to secure the service; 2) a strict selection criteria for the clients regarding financial schemes; 3) a complicated administrative procedure for the financial schemes; 4) the unavailability of the support services in social service agencies; 5) an uneven caseload distribution between the public and the private sector leading to an overload of the NGOs, and 6) a lack of service coordination.

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<sup>2</sup> Practice Direction 15.10 Family Mediation. Retrieved from:  
<http://legalref.judiciary.gov.hk/lrs/common/pd/pdcontent.jsp?pdn=PD15.10.htm&lang=EN>

4. Based on the various sources of information provided by this study, the research team has made the following observations.

#### **4.1 The Societal Effect of Family Mediation**

Our findings indicated that the service users, who were from different socio-economic backgrounds, were highly satisfied with the service as indicated from the findings of the survey and the interviews. Moreover, various positive societal effects that have arisen from using family mediation services to resolve divorce-related disputes, which include reducing the financial cost (e.g., saved time and money), the psychological cost (e.g., stress) and the social cost (e.g., harm done to the children) to the service users, were confirmed by the service users, the children, the mediators and the stakeholders (i.e., the service referrers and the service providers).

#### **4.2 Popularity and Utilization of Family Mediation in Hong Kong**

Family mediation services are still under-utilized by the public as reflected in the relatively low number of mediation cases when compared with the number of divorce decrees granted. Two possible barriers to using mediation were revealed in the study. The first is that there is still a lack of public recognition of the service and a lack of accessibility in the community. Not only potential service users but also some service referrers had little knowledge of the functions, the availability, the accessibility and the content of the service. The second barrier is that the poor relationships of divorcing couples, such as the lack of basic trust, respect and cooperation, may make it difficult for the two parties to get mutual consent for using and actively engaging in the service.

#### **4.3 Financial Subsidies**

Financial subsidy schemes are a significant resource for some service users, yet all of these schemes are short-term and project-based (such as the Family Council Pilot Scheme, the funding from the Jockey Club and the Community Chest) so that they are unable to fulfill the financial needs of all

the clients. Apart from that, the study indicated that the users who have either a low or a high capability to pay the mediation fee have a higher level of satisfaction with the charge than those who were in the “sandwich” class. This group of people may include either the working poor or families with relatively heavy caring financial burdens. In relation to the fee for mediation, there was a trend towards an overuse of the service in the public sector and an under-utilization of the service in the private sector as revealed by the uneven caseload distribution between the two sectors. Many service users tended to choose the service of the non-government organizations as they offered a relatively low price when compared to the private sector. As a result, some private practitioners expressed their uncertainty towards the future prospects of the service.

#### **4.4 Quality of Service**

The high quality of the service in terms of the mediators’ professional competence was confirmed by the outcomes of the Family Council Pilot Scheme and the findings of the survey and the interviews. Nevertheless, the service referrers made various comments on the performance of the mediators because they had little means of getting a comprehensive picture of the quality of the mediators unless they had previous experiences of collaborating with them. They also felt that at present, Hong Kong has no single professional body to standardize the professional standards of family mediators so that it may be hard for them to form a comprehensive picture of the overall quality of mediators in Hong Kong. Besides that, some stakeholders including the service referrers and the service providers raised their concern about the lack of a bureau or government department to oversee, plan and monitor the service. Last but not least, many mediators, stakeholders and service users pointed out the need for support services for the service users and their children during mediation and at the post-mediation stage. However, they regarded that such services were insufficient as most of them were not provided as routine services by social service agencies.

#### **4.5 Compliance with an Agreement and Re-litigation**

Post-mediation is a significant stage in mediation as it indicates the sustainability of the agreement and the post-divorce adjustment of the family. Nevertheless, in our study, the picture of compliance and re-litigation was unclear for two reasons. First, it was not the usual practice of the mediators to contact their clients once an agreement was reached and had been reported to the court. Second, most user informants had just finished the mediation when they participated in this study. Although the service users did not yet know whether or not their ex-spouses would comply with the agreement, some have already expressed their worries, particularly worries regarding child-related issues such as alimony and child care arrangements, which were ongoing issues. Some experienced mediators also regarded that the most common situation involving non-compliance was in relation to children's issues because child-related issues such as alimony and childcare arrangements were ongoing while property or accommodation was a one-shot settlement. They could be influenced by some situational factors such as a change in the ex-spouses' financial condition (e.g., unemployment), living place (e.g. migration) or marital status (e.g., remarriage) as well as the changing needs of children (e.g., children transit from childhood to adolescence leading to an increased financial demand).

#### **4.6 Children's Inclusion in the Family Mediation**

The findings elicited from the child informants asserted the fact that parental divorce had a negative impact on children's growth and development specifically with regard to the physical, psychological and social aspects. Mediation has brought about some positive changes in children both in tangible (e.g., childcare arrangements) and intangible (e.g., children's psychological stress) areas. Although the inclusion of children in family mediation was significant for protecting their welfare, most mediators did not seek the views of children directly and only a few of them involved children in the mediation process. We found that only 2 out of the 10 child informants in this study participated in

the mediation process. Many mediators were concerned about the effectiveness of engaging children and concerned that it might cause potential harm to children if they were involved in the mediation.

5. Based on this study, the research team offers the following recommendations to the government for consideration:

### **5.1 Mandatory Information Session for Divorcing Couples**

Family mediation is a valuable means to resolve divorce-related disputes, and should be promoted further and made available as an option for couples throughout the entire divorce and ancillary proceedings. Apart from the current practice of making the service available through Practice Direction 15.10, the research team suggests having a mandatory information session for any person who has filed a divorce petition in a Hong Kong Court and involved child-related disputes. The information session could be organized and delivered by the FMCO as their staff already has extensive experience in this area.

### **5.2 Long-term Financial Support for Family Mediation Services**

To secure a stable and a long-term service and to achieve a better integration between the mediation and support services for divorcees and their children, the government should consider providing long-term financial support for the service. The research team proposes two options for a subsidy model. The first option is that the government may provide subvention to the non-government organizations which have already acquired considerable expertise in family mediation. The amount of resources allocated to each agency could be determined with reference to the number of years its service has been in operation, the quality of the service, and the availability of support services for divorcees and their children. A long-term subsidy would help the non-government organizations develop sufficient human and other resources for providing the service, allowing them flexibility in resource distribution and in service development that can be based on the changing needs of society. The second option is an

adoption of a “money follows the user” model, which means that the subsidy is provided to service users (like legal aid recipients) directly. The service users, with the subsidy from the government, may use the service provided by the public sector or the private sector. The eligibility of recipients could be determined by adopting criteria from a means test mechanism. The needs of the working poor and the “sandwich” class should be taken into serious consideration as these classes are always left out of the welfare system when eligibility criteria are compiled.

### **5.3 Inter-sectoral Cooperation and Collaboration**

The research team regards it to be necessary for a government department or a bureau to head up and to oversee the service. Close collaboration between this government department or bureau and the Judiciary is necessary to enforce the current pluralistic service delivery model. Besides that, a close co-operation between social workers of the IFSCs who take care of the welfare needs of divorcing couples and their children, and mediators are important for helping them to go through the changes from divorce to post-divorce period in a smooth way.

### **5.4 Other Measures to Enhance the Quality of Family Mediation Services**

#### *5.4.1 Promotion*

The research team regards various kinds of public promotion and community education activities to be necessary to increase the popularity and utilization of family mediation among divorcing couples. We suggest adopting a three-tiered approach to promotion with the specific purpose of targeting the general public, the divorcing couples and the referrers. Divorce education programs could be rendered to the general public for the purpose of addressing the issues of concern to parents and their children pertaining to divorce. In addition, uncoupling counseling could be provided to couples who may be at risk of divorce in order to resolve any painful and unresolved marital relationship issues. Doing so may facilitate re-building trust and respect for each other, and better prepare them to use a harmonious way to settle their disputes if they wish to do so. Apart from the current services rendered by the Family

Mediation Coordinator's Office and the community-based service, an enhanced e-platform could be used to increase the popularity of the service among divorcing couples. The contents of promotional materials should be enriched by adding service users' experiences and feedback, and their success stories as well as the children's opinions of mediation in order to advocate the positive values of family mediation. With respect to the referrers, they should be provided with a package of promotional materials that includes information about the content and logistics of the service. Training workshops for enriching their understanding of the nature and the actual implementation of the service could be considered as well.

#### *5.4.2 Training*

To keep up the quality of the service, the government may consider appointing the HKMAAL as a single body to standardize the training of the mediators and to oversee the professional standards of the mediators. In addition, the government may consider requiring all practicing mediators to take the courses for Continuing Professional Development to ensure that all the mediators have a high professional standard so they can work on the changing needs of divorcing couples and their children.

#### *5.4.3 Post-mediation Work*

Post-mediation work should be further enhanced through a periodical follow up of mediated cases after an agreement has been reached and has been reported to the court by the mediators. Mediators should also educate themselves about some possible situations leading to non-compliance and re-litigation, and impart the relevant information to their clients. Apart from that, support services for divorcing couples / divorced couples and their children are important for helping them to transit a family change smoothly. These services have been and should be rendered as routine services by the Integrated Family Service Centers. Mediators should also refer their clients, in particular those families who have children, to these services as a post-mediation service

#### *5.4.4 Children's Work*

To promote the well-being and the welfare of children, it is necessary to enhance mediators' professional competence at working with children properly through the training courses for accreditation and for continuing professional development. The research team has three suggestions to be followed when children are involved in family mediation. First, children's views should be sought whenever divorcing couples involve child-related disputes. Second, their voices should be heard as early as possible in order to minimize the views and the perspectives of the adults (e.g., mediators and parents) unduly coloring the views of the children. Third, whenever an interview is needed, it is more desirable for a mediator to arrange an individual session with a child or children to avoid putting them in a loyalty dilemma or causing them other unnecessary harm.

#### *5.4.5 Data Bank*

The government should set up a data bank for family mediation aimed at collecting data, recording it and using it to plan and develop the service.

## 行政摘要

1. 此行政摘要將精簡報告由中央政策組委託本研究團隊所進行的“香港家事調解服務狀況研究”的內容與結果。此研究數據由兩部分構成，其一為家庭議會所提供關於家事調解試驗計劃的官方記錄，其二為研究團隊通過問卷和深度訪談所收集的資料。
2. 有關於家庭議會的兩年家事調解試驗計劃（第一階段為 2012 年 8 月至 2014 年 7 月，第二階段為 2014 年 8 月至 2016 年 1 月）所取得的數據顯示：
  - 2.1 第一階段共有263個家事調解案例受家庭議會資助，調解成功率為47%；第二階段共有154個案例接受資助，調解成功率達75%。
  - 2.2 有四間社會服務機構參與此試驗計劃。整體而言，香港公教婚姻輔導會處理超過百分之五十（53%）的個案，香港家庭福利會的個案則佔38.6%，其餘個案由香港明愛和循道衛理楊震社會服務處分擔。
  - 2.3 大部分服務使用者的家庭月入為\$10,000或以下；整體而言男性服務使用者的收入略高於女性服務使用者的收入。
  - 2.4 在兩年計劃中，男性使用者受全額資助的比例有下降的趨勢，由第一階段超過60%減少為第二階段少於40%；在女性使用者方面，約有三分之二是獲得受全額的資助。
  - 2.5 於2015年，共有47.83%的受服務使用者達成完全的協議， 5.34%達成部分的協議，而23.91% 未能達成任何的協議；在兩個階段中，第二階段的協議達成率較第一階段為高。
  - 2.6 在2015年間，家事調節前期準備和調解所需要的平均時間分別為 5.27和7.34小時，相比2012年偏高；而家事調解平均所需要的時間為8.95至12.61小時。

### 3. 家事調解服務狀況研究（2015 年 7 月至 2016 年 6 月）

#### 3.1 研究目標：

- 3.1.1 比較受家庭議會資助與非資助的服務使用者的特點、對服務的期待和調解的結果
- 3.1.2 比較使用與不使用家事調解服務者在解決糾紛的結果
- 3.1.3 探究家事調解服務所需要的資源以及成本
- 3.1.4 探究家事調解服務過程中關注的議題
- 3.1.5 探究影響家事調解服務使用率與成效的主要因素
- 3.1.6 了解達至不同程度協議後所帶來的效果
- 3.1.7 探索服務使用者對整體服務、調解過程和結果的滿意度

#### 3.2 研究方法：

3.2.1 本研究採用服務使用者滿意度調查和深度訪談的混合研究方法。

3.2.1.1 本研究共收集了 205 份問卷，其中 77 份問卷為受家庭議會資助的個案，128 份為非受資助的個案。

3.2.1.2 本研究共訪問了 100 人，包括 40 名服務使用者（包括 21 名家庭議會資助個案和 19 名非資助個案），10 名服務使用者孩子（包括 5 名受資助個案和 5 名非資助個案），8 名非服務使用者，29 名家事調解員和家事調解督導（包括 21 名處理家庭議會資助個案和 19 名處理非家庭議會資助個案），13 名持份者（包括 2 名專家、6 名服務提供者和 5 名服務轉介者）

### 3.3 受訪者的特徵及調查結果概要：

#### 3.3.1 服務使用者主要特點如下：

3.3.1.1 男女比例較為均衡，分別佔 45.6% 和 54.4%。他們收入中位數介乎於\$10,000 和 \$20,000 之間。

3.3.1.2 過半數的服務使用者的教育水平達至高中或以上（39.2%完成高中學業和 33.8% 有大學及以上的學歷）

3.3.1.3 超過 60%的服務使用者擁有全職工作； 16.7% 為全職家庭工作者

#### 3.3.2 問卷調查結果如下：

3.3.2.1 約一半（43.6%）服務使用者免費使用家事調解服務，25%服務使用者的調解費用少於 \$100，9.9%服務使用者的調解費用為 \$501 或以上。

3.3.2.2 約半數 (51.7%) 受訪者曾參與 1 至 2 節的個人面談，約四成 (42.9%) 參與 3 至 4 節的共同會議。

3.3.2.3 約八成 (79.5%) 受訪者表示通過家事調解後能達成完全的協議， 18.5%能達成部分的協議，2%受訪者則表示並未能達成任何的協議。

3.3.2.4 在所有達成完全協議的個案中，佔最多是有關孩子撫養和照管協議(n= 128)，其次為孩子的生活開支安排 (n=122) 和婚後財產分配 (n=120)。關於達成部分協議的內容，主要是關於孩子生活開支 (n=30), 孩子撫養和照顧安排 (n=28) 和親子時間安排 (n=25)。而離婚後住宿安排為最具爭議的項目，亦是最難達成任何的協議 (n=2)。

- 3.3.2.5 受訪者表示使用服務之前，他們甚少了解家事調解服務的目的和內容。他們主要從家事法庭(32.7%)和社工(22.9%)獲取有關的訊息，而只有少部分受訪者(15.6%)是通過服務宣傳單張或網頁獲取有關家事調解的資訊。
- 3.3.2.6 整體而言，受訪者對所接受的家事調解服務有很高的滿意度(均值 = 5.203, 標準差 = .61)，包括關於孩子管養權(均值 = 4.98, 標準差= .79)、財產問題(均值 = 4.65, 標準差 = 1.06)、調解過程(均值 = 4.98, 標準差= .71)和服務內容(均值 = 5.31, 標準差 = .63)。
- 3.3.2.7 在以上家事調解服務的五個維度滿意度方面，家庭議會資助個案與非家庭議會資助個案並未有顯著的差別。
- 3.3.2.8 不同社會經濟背景的受訪者對服務的滿意程度上並沒有顯著的不同。
- 3.3.2.9 受訪者對前配偶執行有關於孩子管養和財產問題協議條款有較高的信任，兩項平均值分別為 4.83 和 4.87。

#### 3.4 以下部分為分析訪談所得的主要發現：

3.4.1 *服務使用者*方面，他們對家事調解服務有正面和積極的評價。

3.4.1.1 服務使用者認為家事調解服務帶來以下幾方面的好處，包括：1) (相比訴訟) 省時省錢，2) 舒緩離婚期間的心理和精神壓力，3) 獲得有效解決糾紛的方法和建議，4) 獲得情緒支持，5) 以和平理性的態度與前配偶協商事情及 6) 擁有決策的自主權。

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<sup>3</sup> 總分為 6 分。

- 3.4.1.2 服務使用者認為家事調解服務對家庭關係帶來積極的影響，包括：1) 改善與前配偶的關係，2) 減少離婚對孩子的負面影響，3) 為孩子樹立以和平方法解決衝突的榜樣，4) 建立離婚後共同親職的基礎，和5) 減低其他家庭成員的壓力。
- 3.4.1.3 他們認為家事調解員在整個調解過程中扮演十分重要的角色。調解員可以1) 給服務使用者提供有效的指引，2) 提供雙方平均參與的機會，3) 對爭議的事情提供嶄新的視角，4) 保護服務使用者的隱私。同時，調解員創造一個可供雙方自由表達情緒和理性思考的平台，並視乎需要轉介服務使用者至其他相關的服務。
- 3.4.1.4 服務使用者對調解服務的轉介、協調、資助和支援服務有積極的評價。
- 3.4.1.5 在接受家事調解服務之前，受訪者並不了解服務的性質和內容。同時，調解員在個案結束後，甚少跟進雙方執行協議的情況，而一些服務使用者亦擔心前配偶會否履行協議。

#### 3.4.2 在兒童受訪者中：

- 3.4.2.1 大部分兒童並不明白家事調解的功能和內容，部分兒童誤解調解員可以協助其父母修補他們的婚姻關係。
- 3.4.2.2 兒童認為家事調解可以：1) 協助其父母以和平方法解決糾紛，2) 減少父母在離婚過程中的壓力，3) 有機會與一名成熟和持平的成年人傾訴他們的心事。
- 3.4.2.3 對於一些曾經參與調解服務的兒童，他們感激調解員的關心，當調解員清楚解釋調解的目的和過程後，他們往往感到十分安心；但是，在調解過程中，他們在父母面前，難於回答對父母離婚後有關於自己的安排。

### 3.4.3 有關家事調解員與家事調解督導的觀點：

- 3.4.3.1 影響調解過程與結果的因素包括三類：1) 服務使用者相關因素，2) 調解員素質相關因素，3) 法庭相關因素。
- 3.4.3.2 調解員認為家事調解服務可以積極地影響服務使用者與前配偶、孩子、朋友及家人的關係。當離異夫婦的紛爭通過調解後，他們可以更容易重整心情，開始新生活；離婚夫婦之間也發展出更好的溝通模式，為日後的共同親職建立良好的基礎；兒童因父母離異所受的負面影響也會減少，從而讓他們更容易適應父母離婚後所帶來的轉變。
- 3.4.3.3 基於保密原則，調解員在個案結束後甚少跟進雙方履行協議的情況。他們通常只能透過一些非正式的接觸，了解情況。大部份調解員認為家事調解服務使用者比非服務使用者在協議執行方面表現更佳；而比較一次性解決的項目（例如財產分割、住房安排等）和持續性的項目（例如：孩子的生活安排）的執行情況時，前者往往比後者較為理想，主要原因是後者的項目會受多種情境因素影響，包括前配偶職業和經濟狀況的變化（例如：失業）、居所變化（例如：移民）或孩子成長需求的變化（例如：從童年期到青少年期轉變中所帶來更大的經濟需求）。
- 3.4.3.4 整體而言，他們對家事調解服務有正面的評價，尤其讚揚家事調解統籌主任辦事處的轉介與協調工作；同時，他們認為需要進一步探討和改進調解服務的資助模式、各部門之間的協調以及服務範疇。

#### 3.4.4 有關非服務使用者的觀點：

3.4.4.1 他們不選擇使用家事調解服務解決離婚糾紛的原因包括：1) 訴訟比調解更能解決問題，2) 缺乏對調解服務的認識，3) 前配偶不接受調解，4) 誤解調解服務的目的為修補婚姻關係。

3.4.4.2 若使用家事調解服務，他們認為將會有利於他們與前配偶建立較好的關係、適應離婚後的生活和建立離婚後共同親職的責任。

#### 3.4.5 服務轉介者與提供者的看法概述如下：

##### 3.4.5.1 關於服務轉介者的看法

3.4.5.1.1 轉介者主要有以三項標準來決定會否轉介案主使用家事調解服務，包括 1) 根據 Practice Direction 15.10的要求；2) 案主有經濟困難；3) 紛爭牽涉兒童相關的議題。

3.4.5.1.2 使用家事調解去處理家庭紛爭可能的優勢包括：1) 省時省錢；2) 雙方更有可能達成一個可持續的協議；3) 案主在離婚後較能保持彼此的關係和理想的親子關係。

3.4.5.1.3 他們認為應更多關注以下議題：1) 公眾對家事調解服務的了解；2) 轉介者缺乏對家事調解服務性質、過程、服務供應者及財務資助的了解；3) 對私人執業的家事調解員支持不足；4) 家事調解員的質素參差；5) 支援服務的重要性；6) 各部門之間的協調。

##### 3.4.5.2 關於服務提供者的看法

3.4.5.2.1 服務提供者從以下幾個方面評述家事調解服務的發展現況：1) 服務的可及性；2) 服務的提供與資助模式；3) 調解員的數量；4) 公眾對支援服務的認知。

3.4.5.2.2 服務提供者在提供家事調解服務過程中所遇到的困難包括：1) 缺乏長期財務支援以致難以保證服務的持續性；2) 現行的資助審批標準對個案甄選過於嚴格；3) 申請財務資助的行政手續過程複雜；4) 社會服務機構對離婚家庭支援服務供應不足；5) 工作量分配不均致使非政府機構所承擔的個案數目遠多於私人執業的家事調解員；6) 家事調解服務缺乏協調和統籌。

4. 基於此研究豐富而全面的資料分析，研究團隊有以下觀察。

#### 4.1. 家事調解服務對社會的價值

我們的研究發現，不同社會經濟背景的服務使用者均對服務表示滿意。另外，服務使用者、兒童、調解員和持份者（包括服務轉介者和提供者）一致肯定家事調解服務的價值，包括經濟價值（例如：省時省錢）、心理價值（例如：減少離婚所帶來的心理壓力）和社會價值（例如：減低父母離婚對兒童造成的傷害）。

#### 4.2. 公眾認知度與使用率

現時，香港家事調解服務的使用率仍然偏低，這顯示離婚人士仍較多選擇以訴訟來解決離婚時的紛爭。我們的研究顯示，導致此現象原因有二。首先，公眾缺乏對此服務的認知，而此服務在社區中的可及性亦低。不單潛在服務使用者不了解此服務，甚至服務轉介者亦缺乏掌握家事調解服務的功能、服務提供和內容等。其二，離婚夫婦之間的惡劣關係—例如缺乏基本信任、彼此尊重與合作—令他們難於同意並積極參與調解過程。

### 4.3. 財務資助

對於很多服務使用者而言，財務資助是影響他們能否使用家事調解服務的重要原因之一。現時的財務資助都是短期計劃（例如家庭議會試驗計劃、賽馬會慈善信託基金和香港公益金的資助），不能滿足所有個案的需求。我們的研究發現，擁有高或低支付能力的服務使用者相比“夾心階層”有更高的服務滿意度。這批“夾心階層”可能包括在職貧窮家庭或有較沉重照顧家庭的負擔。同時，因非政府機構提供的調解服務相比私人執業機構收費略低，市民傾向使用非政府機構的服務，造成非政府機構和私人執業機構之間的工作量分佈不均，在此種情況下，一些私人執業者對行業前景表示憂慮。

### 4.4. 服務質素

本研究顯示，本港家事調解服務的質素甚高，而且大部份的調解員均擁有高水準的專業能力。然而，有些服務轉介者對不同的調解員評價不一，這是由於他們缺乏了解整體調解員的質素，亦與本港仍然沒有一個專業組織統一和標準化調解員的資歷有關。另外一些持份者（包括服務轉介者和提供者）也提出現時本港缺乏一個政府部門專責監管和籌劃家事調解服務。同時，調解員、持份者和服務使用者都指出支援服務提供不足，例如調解過程中對兒童的支援以及調解完成後的跟進服務，而且這些服務亦非一項常規性的服務。

### 4.5. 協議執行和再訴訟的情況

家事調解其中一個成效指標是調解完成後雙方能否執行協議，可是，我們的研究未能清晰地了解這方面的情況。原因有兩方面，一方面是因為調解結束並向法院呈交報告後，調解員一般不會再與服務使用者聯絡；另一方面是因為大部分參與此研究的服務使用者剛完成調解，他們尚未遇到執行方面的問題。雖然這些服務使用者尚未知道其前配偶履行協議的情況，但是，有一些受訪者已經擔心對方會否執行關於贍養費和孩子照顧安排的協議。一些富經驗的家事調

解員也指出，由於贍養費和孩子照顧安排是一個持續性的協議，其執行將會受多種情境因素的影響，包括前配偶的財務狀況、婚姻狀況、居住地點以及孩子持續變化的成長需要。

#### 4.6. 兒童在家事調解服務中的參與

訪談資料證實，父母離異對兒童的身心與社交方面造成很大的影響，而家事調解服務可以在實質層面(例如：兒童照顧安排) 和非實質層面（例如：緩解兒童心理壓力）上減低這些負面的影響。儘管兒童參與調解過程有利於保護和提升他們的福祉，但絕大多數調解員都因為相關訓練不足或擔心調解對兒童產生負面的影響，而甚少邀請他們參與調解的過程，在我們訪問的 10 名兒童中，僅有 2 名兒童有直接參與調解的經驗。

5. 基於以上研究發現，研究團隊提供以下建議供政府參考：

##### 5.1. 家事調解服務強制講座

作為一種非常有價值解決離婚相關紛爭的方法，政府應繼續推廣和提供家事調解服務，鼓勵離婚夫婦在離婚的任何階段選用此服務。除了執行 Practice Direction 15.10 的要求外，研究團隊認為應強制每對夫婦於法庭申請離婚時，若他們涉及一些有關子女安排上的紛爭時，必須參加家事調解講座。由於家事調解統籌主任辦事處的職員在組織和提供講座方面已有豐富的經驗，研究團隊建議家事調解服務強制講座可以由他們籌劃和執行。

##### 5.2. 穩定和長期的財務支援

為保證服務能持續地發展，政府應考慮對家事調解服務提供長期和穩定的財務支援。在財務支援的方法上，研究團隊提出兩種方案。一，政府可直接資助一些非政府機構，資助額可以根據該機構提供家事調解服務的年資、質素、數量和離婚家庭支援服務的配套而決定。此種資助模式將促進非政府機構培訓家事調解專業人才和發展相關服務，同時也給予機構彈性，根據社會需求調整內部資源配置和服務結構。二，政府可採用“錢跟人走”的資助模式，資助每

位服務使用者（類似法律援助的資助模式），而服務使用者可以運用此資助自行選擇服務提供者（非政府機構或私人職業者）。服務使用者需通過資格審查才能獲得資助；在訂立審查標準時，應將在職貧窮和有沉重照顧家庭負擔的人士納入考慮，使他們也能受惠其中。

### 5.3. 跨部門合作與協調

研究團隊認為有必要由一個政府部門主管和監督家事調解服務，有關部門需要與司法部有緊密的合作，進一步推行現時雙軌 / 平行的服務模式。除此之外，負責照顧離婚夫婦及其子女福利的綜合家庭服務社工必須與調解員緊密合作，以協助他們順利渡過因離婚和離婚後所帶來的轉變。

### 5.4. 提升家事調解服務的其他建議

#### 5.4.1. 宣傳

研究團隊認為有必要進行多種形式的公共宣傳和社區教育活動，以提高公眾人士對家事調解服務的認知和使用率。公眾宣傳可從三個層面進行，宣傳對象包括一般市民、離婚夫婦和服務轉介者。一般市民方面，政府可推行一些與離婚相關的教育活動，讓他們了解離婚對夫婦本人和孩子可能產生的影響。另外，政府亦應該對有離婚危機的夫婦提供婚姻輔導，協助他們解決婚姻中的糾結，讓他們重建基本的互信任和尊重，增加他們使用調解服務的可能性。對於離婚夫婦方面，研究團隊認為除了現時家事調解統籌主任辦事處所提供的服務外，政府應充分發揮電子網絡平台的功能。另外，政府可以豐富現時宣傳資料的內容，例如加入服務使用者的經驗與評價、成功故事以及兒童對於家事調解服務的積極經驗，令市民更明白家事調解服務對家庭所帶來的多種正面影響。服務轉介者方面，我們建議加強宣傳內容，將服務內容和流程納入其中。同時，組織一些與家事調解有關的培訓工作坊，讓他們更能理解和掌握家事調解服務的內容、性質、和實際操作的情況。

#### 5.4.2. 專業培訓

為保證調解服務的質素和調解員的專業水平，政府可考慮委任香港調解資歷評審協會有限公司統一本港家事調解員的質素和監管家事調解員的專業資格。另外，政府可以考慮要求所有家事調解員修讀專業持續進修課程，確保家事調解員可以保持其專業能力，處理離婚夫婦及兒童不同的需求。

#### 5.4.3. 調解服務結束後的跟進工作

研究團隊建議，在協議達成並且向法院呈交報告之後，調解員需定期跟進雙方履行協議的情況。調解員應充分理解雙方不能執行協議的可能情況，並且向離婚夫婦提供相關的資料。此外，離婚後支援服務對離婚夫婦及其孩子是否能平穩過渡十分重要，因此綜合家庭服務中心應一如以往，繼續提供此類常規服務給這些家庭，而家事調解員應該在調解過程中或結束之後，轉介此類服務給有需要人士。

#### 5.4.4. 兒童工作

為促進兒童的身心健康和福祉，家事調解員應通過專業認證課程和持續進修課程提升兒童工作的能力。當兒童參與家事調解時，研究團隊有三點建議。第一，只要涉及與兒童相關的爭議，家事調解員必須邀請兒童參與家事調解的過程。第二，家事調解員必須盡早了解兒童的想法，以減少他們受成人（例如：調解員、父母）的影響。第三，家事調解員應安排兒童進行單獨會面，以減少兒童遭受不必要的傷害，。

#### 5.4.5. 數據庫

政府應該設立關於家事調解服務的數據庫，收集和記錄使用家事調解服務的相關信息，為日後的服務研究和設計作好準備。

## GLOSSARY OF TERMS

<u>Terms</u>	<u>Definitions</u>
<b>Agreement</b>	An agreement is a contract in which separating / divorcing couples engaged in divorce-related disputes agree to try to settle them out of court.
<b>Chi-square</b>	A statistical significance test used when both the independent and dependent variables are nominal level.
<b>Cronbach's <math>\alpha</math> (alpha)</b>	A statistic for depicting the internal consistency reliability of an instrument; it represents the average of the correlations between the sub-scores of all possible subsets of half of the items on the instrument.
<b>Cross tabulation / contingency table</b>	Any table format for presenting the relationships among variables in the form of percentage distribution.
<b>Decree absolute</b>	The final decree in divorce proceeding.
<b>Descriptive statistics</b>	Statistical computations that describe either the characteristics of a sample or the relationship among variables in a sample.
<b>Family Council Pilot Scheme</b>	A pilot scheme launched by the Family Council through the Home Affairs Bureau in 2012 to provide direct sponsorship to interested NGOs for the provision of family mediation services particularly targeting low income families.
<b>Family council sponsored case</b>	Cases are funded under the Family Council Pilot Scheme
<b>Full agreement</b>	Separating / Divorcing couples reach agreement on all issues pertaining to their divorce in family mediation.
<b>Mean</b>	An average, computed by summing the values of several observations and dividing by the number of observations.
<b>Median</b>	Another average; it represents the value of the "middle" case in a rank-ordered set of observations.
<b>No agreement</b>	Separating / Divorcing couples do not reach any agreement on all issues pertaining to their divorce in family mediation.
<b>Non-service users</b>	Separating / Divorcing couples who choose to use litigation to resolve the divorce-related disputes.
<b>Non-sponsored case</b>	Cases that are either sponsored by other funding or private cases.
<b>Partial agreement</b>	Separating / Divorcing couples are able to reach agreement on some issues pertaining to their divorce in family mediation.
<b>Private practitioners</b>	They are qualified family mediators of various professional backgrounds such as legal, education, psychology, health etc. and are not working in NGOs.
<b>Purposive sampling</b>	A type of non-probability sampling technique and is used where subjects are intentionally selected to represent some explicit pre-defined traits or conditions.
<b>Response rate</b>	The number of persons who participate in a survey divided by the

	number selected in the sample, in the form of percentage.
<b>Sampling</b>	The process of selecting a sample.
<b>Sampling criteria</b>	The pre-determined qualities for selecting sample.
<b>Secondary data analysis</b>	An analysis of the data collected by the Family Council
<b>Service users</b>	Separating / Divorcing who choose to use family mediation to settle divorce-related disputes
<b>Significance level</b>	The probability level that is selected in advance to serve as a cutoff point to separate findings that will and will not be attributed to chance. Findings at or below the selected probability level are deemed to be statistically significant.
<b>Standard Deviation</b>	A descriptive statistic that portrays the dispersion of values around the mean.
<b>Stakeholders</b>	People who have concern in family mediation, including the field experts, service referrers and service providers.

## LIST OF ABBREVIATIONS

<b>Abbreviation</b>	<b>Explanation</b>
<b>CDR</b>	Child Dispute Resolution
<b>CRC</b>	Conflict Resolution Center
<b>CRHR</b>	Center for Restoration of Human Relationships
<b>CPU</b>	Central Policy Unit
<b>ELCHK</b>	Evangelical Lutheran Church of Hong Kong
<b>FC</b>	Family Council
<b>FFMM</b>	Facilitative Family Mediation Model
<b>FMCO</b>	Family Mediation Coordinator's Office
<b>HAB</b>	Home Affairs Bureau
<b>HKBA</b>	Hong Kong Bar Association
<b>HKCMAC</b>	Hong Kong Catholic Marriage Advisory Council
<b>Caritas</b>	the Caritas– Hong Kong
<b>HKCS</b>	Hong Kong Christian Service
<b>HKCYS</b>	Hong Kong Children and Youth Services
<b>HKFWS</b>	Hong Kong Family Welfare Society
<b>HKIAC</b>	Hong Kong International Arbitration Center
<b>HKLRC</b>	Hong Kong Law Reform Commission
<b>HKMAAL</b>	Hong Kong Mediation Accreditation Association Limited
<b>HKMC</b>	Hong Kong Mediation Council
<b>HKSKHWC</b>	Hong Kong Sheng Kung Hui Welfare Council
<b>IFSC</b>	Integrated Family Service Center
<b>ISSHKB</b>	International Social Services Hong Kong Branch
<b>LAD</b>	Legal Aid Department
<b>LSHK</b>	Law Society of Hong Kong
<b>LWB</b>	Labour and Welfare Bureau
<b>NAAC</b>	Neighborhood Advice-Action Council
<b>NGO</b>	Non-government organization
<b>SACSC</b>	Shatin Alliance Community Service Center
<b>SD</b>	Standard Deviation
<b>St. JS</b>	St. James Settlement
<b>SWD</b>	Social Welfare Department
<b>TFMM</b>	Therapeutic Family Mediation Model
<b>TWGH</b>	Tung Wah Group of Hospital
<b>YMMSS</b>	Yang Memorial Methodist Social Service

## **CHAPTER 1: INTRODUCTION**

According to Folberg and Taylor (1984), family mediation, rather than adversarial methods, is one of the preferred means of settling disputes over a divorce.

Family mediation can be defined as a process by which the participants, together with the assistance of a neutral person or persons, systematically isolate disputed issues in order to develop options, consider alternatives, and reach a consensual settlement that will accommodate their needs. Mediation is a process that emphasizes the participants' own responsibility for making decisions that affect their lives. It is therefore a self-empowering process (p.7-8)<sup>4</sup>.

Family mediation is conducted by unbiased and impartial mediators, with various professional backgrounds such as lawyers, counselors, and social workers. Mediators are specially trained and have to meet accreditation requirements covering knowledge and skills in negotiation and dispute resolution. They are also required to abide by a code of practice. Unlike lawyers, counselors or social workers, family mediators do not provide legal advice and offer counselling or therapy but they can make referrals to a legal or a counseling service whenever necessary<sup>5</sup>.

Family mediation requires the active involvement of the people concerned with the aim of reaching agreement by consensus. It has the potential advantage of helping families learn to work together and develop skills for resolving future disputes, promoting cooperation and preserving trust among family members during the post-divorce stage,

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<sup>4</sup> Folberg, J. & Taylor, A. (1984). *Mediation: A comprehensive guide to resolving conflicts without litigation*. San Francisco: Jossey-Bass.

<sup>5</sup> Family Mediation (2016). Retrieved from [http://www.judiciary.gov.hk/en/crt\\_services/pphlt/html/fm.htm#3](http://www.judiciary.gov.hk/en/crt_services/pphlt/html/fm.htm#3)

and avoiding litigation, thus reducing further stress among family members<sup>6</sup>. Mediation is particularly significant in protecting children from the negative impact of their parents' divorce.

## **1.1 Scope of Study**

Delegated by the Central Policy Unit (CPU) of the Hong Kong Special Administrative Region, the study was set out to evaluate the effects of family mediation with respect to its workability and effectiveness in the cultural context of Hong Kong. The scope of the study covered the following aspects:

- 1.1.1 To conduct a user satisfaction survey and secondary analysis of published data to assess the effectiveness of the Family Council Pilot Scheme (FC Pilot Scheme)<sup>7</sup> in separating / divorcing persons. The findings were able to identify:
  - 1.1.1.1 the user's satisfaction with the mediation service as a whole;
  - 1.1.1.2 the agreement reached on the matter(s) being mediated;
  - 1.1.1.3 the cost and benefit, including legal costs incurred;
  - 1.1.1.4 spousal relationship quality specifically the ability to communicate with former partners and maintain co-operative relationship between divorce partners;
  - 1.1.1.5 satisfaction with their childcare agreement, financial arrangements and property settlement respectively, where applicable;
  - 1.1.1.6 compliance and re-litigation.

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<sup>6</sup> Curtis, F. A. & Bailey, B. (1990). A mediation-counselling approach to marriage crises resolution. *Mediation Quarterly*, 8, 138.

<sup>7</sup> Refers to glossary of terms

1.1.2 To make comparison of the users' profiles, mediation process and outcomes and to identify the differences, if any, between FC-sponsored cases<sup>8</sup> and non-sponsored cases<sup>9</sup>. The findings could identify the differences of these two groups in the following aspects, if any:

1.1.2.1 the demographic and socio-economic characteristics (e.g. age, gender, ethnic characteristics, educational level, occupations, income, length of marriage) and expectation of outcomes;

1.1.2.2 the financial cost, psychological cost (e.g. stress), and social cost (e.g. harm done to family) incurred;

1.1.2.3 the underlying issues concerned throughout the entire mediation process i.e., the issues of disputes (e.g. child custody, access, financial support for spouse, financial support for child (ren), accommodation/property, etc.);

1.1.2.4 the factors of using family mediation services;

1.1.2.5 the outcomes of the mediation in terms of the agreement and partial agreement rates achieved including the success rates, the family relationship quality (e.g., spousal, parent-child, parent-in-law) and compliance and re-litigation of agreement;

1.1.3 To conduct consultative interviews with family mediation supervisors and family mediators to gain a better understanding of the following:

1.1.3.1 enabling factors that help settle divorce and family disputes successfully;

1.1.3.2 risk factors that may lead to the failure of reaching agreement;

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<sup>8</sup> Refers to glossary of terms

<sup>9</sup> Refers to glossary of terms

- 1.1.3.3 key difficulties in complying with the agreement between the parties (i.e. divorcing couples) and the practice guidelines of family mediation supervisors and family mediators;
- 1.1.3.4 outcome differences, if any, of mediated cases and non-mediated cases (i.e., the cases used the means other than family mediation to resolve divorce-related matters);
- 1.1.3.5 challenges facing the development of family mediation in Hong Kong.
- 1.1.4 To consult relevant agencies in relation to family mediation services to explore how to enhance coordination between community-based mediation service and Government departments / bureau for helping separating / divorcing couples
- 1.1.5 To provide a review on family mediation practices and development home and abroad through reviewing and analyzing the available data, documents and reports. The general profiles of family mediation services in Hong Kong were highlighted and covered the following areas:
  - 1.1.5.1 demographic, socio-economic characteristics of service users;
  - 1.1.5.2 the number and qualification of family mediation supervisors and family mediators.
  - 1.1.5.3 the fee charging mechanism;
  - 1.1.5.4 caseloads involved;
  - 1.1.5.5 issues of concern and time spent on mediation;
  - 1.1.5.6 reasons of seeking and not seeking family mediation services;

- 1.1.5.7 types of case management and / or service provisions for divorcing couples and their children in different stages of the mediation;
- 1.1.5.8 support provided for family mediation supervisors and family mediators;
- 1.1.5.9 success rate;
- 1.1.6 To provide policy recommendations to the government on:
  - 1.1.6.1 Whether or not family mediation should be made mandatory in Hong Kong, and the reasons involved ;
  - 1.1.6.2 Whether or not financial subsidies should be provided by the Government and how to subsidize family mediation services (e.g. financing model, target recipients, affordable service fees);
  - 1.1.6.3 Roles and responsibilities of concerned bureaux / departments (e.g. the SWD, the FC, the Judiciary) when dealing with divorce and family disputes through mediation;
  - 1.1.6.4 Ways to improve the efficiency (e.g. shorten the duration of the whole process) and positive outcomes of family mediation.

## **1.2 Outline of the Chapters**

This report is divided into 8 chapters. This chapter gives a brief introduction of the definition of family mediation and its special features. It also highlights the scope of the study.

Chapter 2 is the literature review. The chapter starts with a description of family mediation development and practices in Australia, England and Wales, Canada, the United States of America (U.S.A.), New Zealand and Singapore. It is followed by a

comprehensive review on family mediation in Hong Kong. At the end of this chapter, we compare and contrast the family mediation in Hong Kong with six selected countries.

Chapter 3 provides an overview on the Family Council Pilot Scheme (FC-Pilot Scheme) and analyses the data gathered from the two-year FC-Pilot Scheme (phase one from August 2012 to July 2014 and phase two from August 2014 to January 2016).

Chapter 4 lists the specifics of the research methodology of the study, including the research questions, the objectives, the sampling, the sampling criteria, the site selection, the measurement instrument, the ethical issues, the data collections methods and the timeline.

The findings of the research study are organized and presented in the following two chapters: Chapter 5 – the Users Satisfaction Survey and Chapter 6 – Interview. To begin with, we describe the profiles of respondents or informants. Then we report and highlight the major findings of the survey and the interview.

Chapter 7 is the discussion and the limitations of the study. We highlight several observations based on the literature review, the data analysis of the FC-Pilot Scheme and the findings of survey and the interview. This chapter ends up in giving an account of the limitations of the study.

Finally, in Chapter 8, on the basis of the information of this report, we give the recommendations on the future directions of family mediation in Hong Kong.

## **CHAPTER 2: LITERATURE REVIEW**

Over the past thirty years a growing number of countries have adopted family mediation as an alternative means for settling divorce-related matters. Appendix I listed the main characteristics of family mediation practices in Australia, England & Wales, Canada, U.S.A., New Zealand, Singapore and Hong Kong. The models of the first four countries were highlighted because those countries already have substantially developed services. Although the development of family mediation in New Zealand has a relatively short history of, there has been a rapid growth within the last decade, specifically in terms of legal reform. Singapore was chosen for the review because the population of the country is composed of a large number of Chinese, among whom some practices might be culturally relevant to Hong Kong.

### **2.1 Australia**

The Family Law Reform Act of 1995 marks the official launch of a family mediation services in Australia. It makes counseling, conciliation and mediation the preferred methods of dispute resolution and places an increased emphasis on children's rights and parental responsibility<sup>10</sup>. At any stage during the proceedings, the disputing parties could voluntarily request that the court provide them with a mediation service conducted by the Registrars or the Counselors or both of them<sup>11</sup>. Besides the court-based mediation service, for divorcing couples, community-based mediation service rendered by NGOs such as

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<sup>10</sup> Bagshaw, D. (1999). Developing family mediation standards: An Australian experience. *Mediation Quarterly*, 16(4), 389-406.

<sup>11</sup> Bagshaw, D. (1999). Developing family mediation standards: An Australian experience. *Mediation Quarterly*, 16(4), 389-406.

Centacare, Relationship Australia, Unifam, and the Family Relationship Center are available. Family mediation services, either court-based or community-based, are generally funded by the Attorney-General's Department. The Family Relationship Center is staffed by professional counsellors and mediators and is the centerpiece of the government's initiative to assist divorcing families<sup>12</sup>. The Department of Family and Children's Services also funds family counseling and mediation services across the nation to build up a child-inclusive model of mediation that will optimize the interests of children. Some empirical studies have suggested that this child-inclusive model has a significant impact on improving the relationships and psychological well-being of children<sup>13, 14</sup>. All family mediators are governed by a standard of conduct that includes attitude, eligibility and competence set by the Law Council of Australia.<sup>15</sup>. The Facilitative Family Mediation model (FFM) is commonly adopted by family mediators. According to four evaluation studies conducted between 1994 and 1996, the mediation process used led to full agreement in 44 % to 71 % of the cases, and partial agreement in 11 % to 39 % of the cases<sup>16</sup>.

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<sup>12</sup> Parkinson, P. (2006). Keeping in contact: the role of family relationship centres in Australia. *Child and family law quarterly*, 18(2), 157-174.

<sup>13</sup> Campbell, A., & Psych, M. (2003). Children as social actors in the mediation of decisions that directly affect in family law. In *Asia Pacific Mediation Forum, Singapore*.

<sup>14</sup> McIntosh, J. E., Wells, Y. D., Smyth, B. M., & Long, C. M. (2008). Child-focused and child-inclusive divorce mediation: comparative outcomes from a prospective study of post separation adjustment. *Family Court Review*, 46(1), 105-124

<sup>15</sup> Ethical guidelines for mediators. (2016). Retrieved from [http://www.lawcouncil.asn.au/FEDLIT/images/Ethical\\_guidelines\\_for\\_mediators.pdf](http://www.lawcouncil.asn.au/FEDLIT/images/Ethical_guidelines_for_mediators.pdf)

<sup>16</sup> Wade, J. (1997). Four evaluation studies of family mediation services in Australia. Law papers, 107-113. [http://epublications.bond.edu.au/law\\_pubs/107](http://epublications.bond.edu.au/law_pubs/107)

## 2.2 New Zealand

In 2005, family mediation (non-judge-led) was officially introduced into the Family Court system as part of a new conciliation service that was the New Zealand government's response to the Law Commission's report of 2003<sup>17</sup>. Family mediation pilot studies were conducted in Family Courts in four areas (North Shore, Hamilton, Porirua and Christchurch). Of the 380 cases which had been referred to mediation, 354 cases entered the pre-mediation service while 284 cases continued on to full mediation service, and positive feedback about the service from the participants was received<sup>18</sup>. Currently, the family court of New Zealand does not provide family mediation services directly, but the judge or the Coordinator of the family court would identify and refer appropriate cases to the New Zealand Dispute Resolution Centre (NZDRC) and the Family Dispute Resolution Centre (FDRC) – the two leading nationwide divorce mediation service providers in New Zealand. All family mediators are governed under the Family Dispute Resolution Act developed in 2013, and they each have to be a member of an approved dispute resolution organization. The FFM model is a common approach in New Zealand. All citizens are entitled to have family dispute resolutions partially subsidized by the government for two case resolutions in any 12 month period<sup>19</sup>.

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<sup>17</sup> Barwick, H., & Gray, A. (2007). *Family Mediation: Evaluation of the Pilot*. Ministry of Justice. New Zealand.

<sup>18</sup> Barwick, H., & Gray, A. (2007). *Family Mediation: Evaluation of the Pilot*. Ministry of Justice. New Zealand

<sup>19</sup> FDRC (2016). *Family Dispute Resolution Center (New Zealand)*. Retrieved from <http://www.fdrc.co.nz/resources/fdr-rules>.

## 2.3 England & Wales

Family Mediation emerged in the United Kingdom during the 1970s<sup>20</sup>. It was made compulsory by the UK Family Law Act of 1996 for a party that wished to apply for legal aid when seeking a divorce<sup>21</sup>. In the case of non-legal aid recipients, if a petition involves children who are under 16 years old, the court can make an order or direction requiring couples to attend a mediation information and assessment meeting and / or a parenting information program<sup>22</sup>. The service are publicly funded, and the service have been provided through<sup>23</sup>: 1) trained and accredited firms of lawyers under contract to the Legal Services Commission that offer all-issues mediation; 2) trained and accredited not-for-profit organizations under contract to the Legal Services Commission that mainly offer mediation in relation to disputes over children; and 3) the Children and Family Courts Advisory and Support Service. The code of practice was developed by the UK College of family mediation that was launched in 1996. Similar to the practice of other places, the FTM model is widely adopted by the family mediators in England and Wales. The success rate of family mediation was high, with approximately 72 % of the families proceeding with mediation reaching full agreement<sup>24</sup>.

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<sup>20</sup> Roberts, M. (2005). Family mediation: the development of the regulatory framework in the United Kingdom. *Conflict Resolution Quarterly*, 22(4), 509-526.

<sup>21</sup> Gribben, S. (2001). Family mediation in England and Wales-some lessons for Australia. *ADR bulletin*, 4(5), 61-67.

<sup>22</sup> James, A. L., Haugen, G. M. D., Rantalaaho, M., & Marples, R. (2010). The voice of the child in family mediation: Norway and England. *The International Journal of Children's Rights*, 18(3), 313-333.

<sup>23</sup> Mantle, G., & Critchley, A. (2004). Social work and child-centred family court mediation. *British Journal of Social Work*, 34(8), 1161-1172.

<sup>24</sup> Oddy, A.J., Phillips, A., & McClure, M. (2014). *Mediation Country Report England and Wales*. In ADR Center [online]. Retrieved from [http://www.adrcenter.com/jamsinternational/civiljustice/Mediation\\_Country\\_Report\\_England\\_and\\_Wales.pdf](http://www.adrcenter.com/jamsinternational/civiljustice/Mediation_Country_Report_England_and_Wales.pdf).

## 2.4 Canada

In Canada, the first pilot project for a court-related conciliation service was launched during the period from 1972 to 1975<sup>25</sup>. With the rapid development of family mediation since the mid-70s, the first association providing family mediation in the private sector was formed in Ontario in 1982. In 1985, the mediation service of Ontario was located within the walls of the Supreme Court of Ontario and provided a free service to clients who used either court- based or private family mediation services<sup>26</sup>, and the service was rendered by social workers, counselors, lawyers and other helping professions. The outcomes of the Family Mediation Pilot Project in Ontario suggested that 50% to 90 % of the cases were settled around four major issues: access, custody, child support, and property division<sup>27</sup>, except for cases involving high conflict couples. At present, all Canadian lawyers are required by law to describe mediation as a possible option for resolving marital matters<sup>28</sup>. Though most Canadian provinces provide a mandatory information session for all those proceeding with a divorce, mediation is on a voluntary basis and is community-based<sup>29</sup>. Whereas the information session is free of charge and subsidized by the government, the community-based service is charged through a sliding scale connected to the users' income. All the family mediators' practice comes under a

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<sup>25</sup> Devlin, A., & Ryan, J. P. (1986). Family mediation in Canada: Past, present, and future developments. *Mediation Quarterly*, 1986(11), 93-108.

<sup>26</sup> Devlin, A., & Ryan, J. P. (1986). Family mediation in Canada: Past, present, and future developments. *Mediation Quarterly*, 1986(11), 93-108.

<sup>27</sup> Kelly, J. B. (2004). Family mediation research: Is there empirical support for the field? *Conflict resolution quarterly*, 22(1-2), 3-35.

<sup>28</sup> Kelly, J. B. (2004). Family mediation research: Is there empirical support for the field? *Conflict resolution quarterly*, 22(1-2), 3-35

<sup>29</sup> Kelly, J. B. (2004). Family mediation research: Is there empirical support for the field? *Conflict resolution quarterly*, 22(1-2), 3-35

code of ethics. Similarly, the FFM model is the common approach used by family mediators in Canada.

## **2.5 The U.S.A.**

In the 1980s, the Family Court of the U.S.A. adopted a tiered service model to assist separating parents to resolve disputes, shifting away from keeping parents together by providing marriage counseling<sup>30</sup>. The reformed model requires that separating parents attend a two to four hour educational program to inform them of, and help them understand, the impact of separation and divorce on children and on parents. After that, they are referred to a confidential mediation process, but the referrals exclude those parents who allege they are separating due to domestic violence<sup>31</sup>. In most states, it is compulsory for separating parents to attend at least one mediation session, which is free of charge. Following sessions are either free of charge or charge a low fee. This arrangement was adopted for the purpose of advocating the use of mediation to end a marriage with integrity and in harmony. As indicated in a study done by the California Divorce and Mediation Project, 50% of the couples reached agreement on all issues, and 8 % reached agreement within a specific area. In addition, 15 % were productive terminations in which couples had resolved one or more critical issues even though they did not return to mediate final divorce issues<sup>32</sup>. All the mediators are paid a salary by the

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<sup>30</sup> Brown, D. G. (1982). Divorce and family mediation: History, review and future directions. *Conciliation Courts Review*, 20(2), 1-44.

<sup>31</sup> Salem, P. (2009). The emergence of triage in family court services: the beginning of the end for mandatory mediation? *Family court review*, 47(3), 371-388.

<sup>32</sup> Salem, P. (2009). The emergence of triage in family court services: the beginning of the end for mandatory mediation? *Family court review*, 47(3), 371-388.

state<sup>33</sup>. They usually have a master degree in family counselling or behavioral sciences. However, the codes of ethics for the family mediators are different across states and are set by different associations such as the academy of Professional Family Mediators, the American Bar Association Family Law Section etc. Although most of the mediators use the FFM model, the standard of the service varies, depending on the availability of resources for the service and the training of the mediators<sup>34</sup>.

## 2.6 Singapore

Since 1995, one year after the introduction of mediation in the Subordinate Courts, mediation has been routinely conducted at the Family Court in Singapore<sup>35</sup>. In 1997, the Singapore Mediation Centre was established by the Chief Justice of Singapore. The government has legislated that separating parents with children under 14 or between 14 and 21 should attend mediation sessions at the Child Focused Resolution Centre or the Family Court respectively<sup>36</sup>. The service is subsidized by the government. In 2009, a total of 23,096 civil, family and criminal cases were mediated. Of these, 20,154 (or 87%) settled by mediation and the success rate remained stable during the following two years<sup>37</sup>. The success of court-based mediation in Singapore may be attributed to the focus on ethics and on cultivating the best practices. To that end, a Code of Ethics and Basic

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<sup>33</sup> Salem, P. (2009). The emergence of triage in family court services: the beginning of the end for mandatory mediation? *Family court review*, 47(3), 371-388.

<sup>34</sup> Salem, P. (2009). The emergence of triage in family court services: the beginning of the end for mandatory mediation? *Family court review*, 47(3), 371-388.

<sup>35</sup> Tan, N. T. (2002). Community mediation in Singapore: Principles for community conflict resolution. *Conflict Resolution Quarterly*, 19(3), 289-301.

<sup>36</sup> Hak, N. A. (2012). Family Mediation in Asia: A Special Reference to the Law and Practice in Malaysia. *IIUM Law Journal*, 15(1), 121-149.

<sup>37</sup> Teh, H.H.(2015). Mediation Practices in ASEAN: The Singapore Experience. Retrieved from <http://www.aseanlawassociation.org/11GAdocs/workshop5-sg.pdf>

Principles of Court Mediation has been developed to provide guidance to judicial officers, court counsellors and volunteers who mediate in the Subordinate Courts.

## **2.7 Hong Kong**

### **2.7.1 Background**

Since the 1980s, Hong Kong has experienced rapid political, economic and social changes that impact upon family life and relationships<sup>38, 39</sup>. Politically, the Joint Declaration made between the United Kingdom and the People's Republic of China that formally announced that Hong Kong would be returned to China in 1997 triggered waves of emigration - mostly to English-speaking - countries like Canada, the U.S.A., and Australia. The number of these "astronaut families" increased drastically. The resulting separation of families caused much stress and difficulties for children as well as for marriages. At around the same time, but beginning a few years earlier, Hong Kong was experiencing rapid economic growth following China opening up the door for business in the 1980s. Many factories were relocated to China, leading to an increase in the number of split families and cross-border marriages due to the large number of people working away from Hong Kong. According to local research, at that time, there was an increase in the number of married men involved in extra-marital affairs outside Hong Kong and this resulted in the erosion of the traditional marriage values in Hong Kong's Chinese society, and an increasing risk of marital breakdown<sup>40</sup>. Moreover, the economic growth in Hong

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<sup>38</sup> Kwan, R. W. H. (2002). Family mediation in Hong Kong: A brief history. In H. H. Irving (Ed.) *Family mediation: theory and practice with Chinese families* (pp. 17-30). Hong Kong: Hong Kong University Press.

<sup>39</sup> Chan, Y. C., Chun, R. P. K., Lam, G. L. T., & Lam, S. K. S. (2007). The development of family mediation services in Hong Kong: Review of an evaluation study. *Journal of Social Welfare & Family Law*, Vol. 29, No. 1, 3-16.

<sup>40</sup> Fan, C. S., & Lui, H. K. (2004). Extramarital affairs, marital satisfaction and divorce: evidence from Hong Kong.

Kong naturally led to the increase of female participation in the labour force, small households and marital dissolution. As a consequence, more people chose to remain single, or preferred to cohabit, and they developed a lax attitude towards divorce. It shaped Hong Kong people to have a more liberal or open attitude towards marriage and divorce, leading to an increased probability of divorce<sup>41</sup>.

In the mid-1990s, divorce requirements under Hong Kong divorce law were relaxed by cutting short the restriction periods on petitions for divorce<sup>42</sup>. Whereas the grounds for a petition for divorce due to desertion and separation with consent was curtailed from 2 years to 1 year, the period for a petition for divorce or separation without consent was shortened from 5 years to 2 years. In addition, couples submitting a joint application for divorce could be exempted from the one-year-separation period<sup>43</sup>

With these changes to the political, economic, social and legal aspects, the number of divorce and separation cases has increased sharply since the 1990s, from 5,551 in 1990 to 13,408 in 1999<sup>44</sup>. In 2013, the number of divorce decrees granted reached 22,271, with the crude divorce rate reaching 3.1 per 1000 people, which was more than three times higher than it had been in 1991<sup>45</sup>. However, many divorce cases were adversarial and

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*Contemporary Economic Policy*, vol. 22, no. 4, pp. 442 -452.

<sup>41</sup> Fan, C. S., & Lui, H. K. (2004). Extramarital affairs, marital satisfaction and divorce; evidence from Hong Kong. *Contemporary Economic Policy*, vol. 22, no. 4, pp. 442 -452.

<sup>42</sup> Kwan, R. W. H. (2002). Family mediation in Hong Kong: A brief history. In H. H. Irving (Ed.) *Family mediation: theory and practice with Chinese families* (pp. 17-30). Hong Kong: Hong Kong University Press; Chan, Y. C., Chun, R. P. K., Lam, G. L. T., & Lam, S. K. S. (2007). The development of family mediation services in Hong Kong: Review of an evaluation study. *Journal of Social Welfare & Family Law*, Vol. 29, No. 1, 3-16.

<sup>43</sup> Kwan, R. W. H. (2002). Family mediation in Hong Kong: A brief history. In H. H. Irving (Ed.) *Family mediation: theory and practice with Chinese families* (pp. 17-30). Hong Kong: Hong Kong University Press.

<sup>44</sup> Kwan, R. W. H. (2002). Family mediation in Hong Kong: A brief history. In H. H. Irving (Ed.) *Family mediation: theory and practice with Chinese families* (pp. 17-30). Hong Kong: Hong Kong University Press.

<sup>45</sup> Census and Statistics Department (2015). *Feature articles of HKMDS 2015: Marriage and divorce trends in Hong Kong, 1991 to 2013*.

contained confrontations, the processing of which was traumatic and difficult, especially for the separating couple's children. It was difficult for a couple themselves to negotiate productively on all the issues that came along with the divorce, such as property and child custody, etc. They needed a third person as a mediator to help them settle those issues in a more peaceful and less costly way. Under these circumstances, the concept of mediation as an alternative to court matrimonial proceedings was introduced in Hong Kong.

### **2.7.2 The Development of Family Mediation in Hong Kong**

This increase in the number of divorce cases led to overwhelming workloads in the courts and the Legal Aid Department (LAD). Apart from that, there was more evidence to support the fact that divorces by couples who used family mediation, rather than litigation, to resolve their disputes over divorce-related matters were less costly financially and psychologically. Together with a good fit between the cultural values of family and family relationships in Chinese culture and the core values of family mediation<sup>46</sup>, family mediation became a viable option for divorcing couples wanting to settle their disputes in Hong Kong.

In 1980, family mediation started to develop in Hong Kong as a result of the efforts of different institutions such as the Hong Kong Family Welfare Society (HKFWS), the Hong Kong Catholic Marriage Advisory Council (HKCMAC) and the Hong Kong International Arbitration Center (HKIAC). In 1988, the HKCMAC was the first

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<sup>46</sup> Kwan, R. W. H. (2002). Family mediation in Hong Kong: A brief history. In H. H. Irving (Ed.) *Family mediation: theory and practice with Chinese families* (pp. 17-30). Hong Kong: Hong Kong University Press.; Chan, Y. C., Chun, R. P. K., Lam, G. L. T., & Lam, S. K. S. (2007). The development of family mediation services in Hong Kong: Review of an evaluation study. *Journal of Social Welfare & Family Law*, Vol. 29, No. 1, 3-16.

organization to put the concept of family mediation into practice<sup>47</sup>. In 1992, when Lord Chris Patten was the governor of Hong Kong, his wife Lavender Thornton, who was barrister, actively advocated the adoption of a non-adversarial approach to settle divorce-related disputes. The idea was fully supported by the Social Welfare Department (SWD) at that time. With the efforts of the HKIAC, which had been established back in 1985, the first Family Mediation Interest Group was formed in 1994 and the first training course on family mediation was organized in 1996. The HKIAC involved both legal and social work professionals in this interest group to advocate family mediation to professionals and the general public. Apart from offering interdisciplinary seminars and training sessions, the HKIAC also played the key role in formulating the necessary procedures for accreditation, the code of practice, and the training requirements. In 1995 and 1996, both the HKCMAC and the HKIAC also offered formal training in family mediation to staff and all interested parties. At about the same time, publications on family mediation were widely disseminated, aimed at further promoting family mediation to professionals and the general public. In 1997, the HKFWS became the second NGO to set up a center and provide specialized family mediation services to the general public. In addition, there were some private practitioners who provided English-speaking mediation services. In 1999, the Resource Counseling Center started providing family mediation on a fee-for-service basis. In the same year, the HKCMAC commissioned the City University of Hong Kong to conduct another research project on family mediation. The findings indicated that 87.1% of the participants were inclined to use the divorce mediation service when the

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<sup>47</sup> Law, C. K. (1991). *Evaluation research report on the marriage mediation counseling project*. Hong Kong: Hong Kong Catholic Marriage Advisory Council.

purposes and the function of the service were explained clearly<sup>48</sup>. The encouraging findings of the study affirmed the fact that the service was increasingly accepted by the general public. The study also suggested increasing the effort to promote the service in society.

The government has actively engaged in the development of family mediation since the early 90s. In 1999, a report from the Working Group to Review Practices and Procedures Relating to Matrimonial Proceedings of the Judiciary was released that suggested launching a pilot scheme for the introduction of family mediation in Hong Kong<sup>49</sup>. A three-year trial pilot scheme was begun in May 2000. It was a significant development in family mediation in Hong Kong as the government had further taken the leading role in the development of family mediation and formally recognized it as an alternative method to settle disputes arising from divorce.

The pilot scheme aimed at “helping separating / divorcing couples to reach their own mutually acceptable agreements regarding their arrangements for their children and/or any other issues. It was a voluntary process, in which a trained and impartial mediator would assist both parties in communicating and negotiating issues in a confidential setting”<sup>50</sup>. The Judiciary commissioned a local university to conduct an evaluation study, titled “Evaluation Study on the Pilot Scheme on Family Mediation”. The final report was released in 2004. Out of 933 completed cases, 69.5% reached full

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<sup>48</sup> The Hong Kong Catholic Marriage Advisory Council (1999). *Helping family in transition. Needs of divorcing couples in Hong Kong and their inclination to use divorce mediation service*. Hong Kong: The Hong Kong Catholic Marriage Advisory Council.

<sup>49</sup> The Working Group to Review Practices and Procedures Relating to Matrimonial Proceedings (1999). *Report of the working group to consider a pilot scheme for the introduction of mediation into family law Litigation in Hong Kong*. Hong Kong: Judiciary.

<sup>50</sup> Judiciary (2004). *Pilot scheme on family mediation (p.1)*. Hong Kong: Judiciary.

agreement and another 9.7% reached partial agreement. On average, it took 10.33 hours to reach a full agreement, and 13.77 hours to reach a partial agreement. In general, the mediation service saved the users' time and money, sped up legal proceedings, reduced tensions, and facilitated a dialogue on matters related to the divorce<sup>51</sup>. The findings of this evaluation study indicated that family mediation was a viable alternative to litigation in the resolution of disputes for couples seeking separation and divorce in Hong Kong<sup>52</sup>. Also, the research team made several recommendations for the future development of family mediation in Hong Kong. Some of these recommendations have become the basis of our current practice<sup>53</sup> such as the parallel service delivery system comprised of community-based services and court-based services, the pluralistic and diverse professional background of the mediators, the establishment and the role of the Family Mediation Coordinator's Office (FMCO), and the fee-charging mechanism.

Over the past decades, following the government's formal recognition of family mediation as an alternative to litigation to resolve divorce-related matters, family mediation has been rapidly developed. The following descriptions highlight the recent developments in family mediation and its current situation in Hong Kong.

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<sup>51</sup> The Hong Kong Polytechnic University (2004). *The evaluation study on the pilot scheme on family mediation*. Hong Kong: The Hong Kong Polytechnic University.

<sup>52</sup> Same as 5. Kwan, R. W. H. (2002). Family mediation in Hong Kong: A brief history. In H. H. Irving (Ed.) *Family mediation: theory and practice with Chinese families* (pp. 17-30). Hong Kong: Hong Kong University Press.

<sup>53</sup> Same as 5. Kwan, R. W. H. (2002). Family mediation in Hong Kong: A brief history. In H. H. Irving (Ed.) *Family mediation: theory and practice with Chinese families* (pp. 17-30). Hong Kong: Hong Kong University Press.

## 2.7.3 Related Laws and Regulations

### 2.7.3.1 Consultation Paper on Guardianship and Custody<sup>54</sup>

In 1998, the Law Reform Commission of Hong Kong (HKLRC) published a Consultation Paper on Guardianship and Custody. The paper proposes that a statutory checklist of factors that would help a judge with determining custody disputes should be adopted, and if a child is involved, the child's best interests should be considered.

### 2.7.3.2 The Family Dispute Resolution Process<sup>55, 56, 57</sup>

The HKLRC released their report on the Family Dispute Resolution Process in 2003. It reviews different methods that can be adopted in resolving family disputes. The report makes particular recommendations for strengthening family mediation services and enhancing the family litigation process.

### 2.7.3.3 The Final Report on Civil Justice Reform<sup>58, 59, 60</sup>

The Final Report on Civil Justice Reform released in 2004 further suggests that the LAD should fund persons who are qualified for legal aid and willing to accept family mediation. In order to assist the Court to discharge the duty in question, the newly revised

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<sup>54</sup> The Sub-committee on Guardianship and Custody of the Law Reform Commission (1998). *HKLRC Consultation Paper*. Retrieved from <http://www.hkreform.gov.hk/en/docs/guar-e.pdf>.

<sup>55</sup> The Law Reform Commission of Hong Kong (2003). *The Family Dispute Resolution Process*. Retrieved from <http://www.hkreform.gov.hk/en/docs/rdispute-e.pdf>.

<sup>56</sup> Chief Justice's Working Party on Civil Justice Reform (2004). *The Final Report on Civil Justice Reform*. Retrieved from <http://www.legco.gov.hk/yr06-07/english/bc/bc57/papers/bc570611cb2-1960-e.pdf>

<sup>57</sup> Judiciary (2012). *PRACTICE DIRECTION - 15.10*. Retrieved from <http://legalref.judiciary.gov.hk/lrs/common/pd/pdcontent.jsp?pdn=PD15.10.htm&lang=EN>

<sup>58</sup> The Law Reform Commission of Hong Kong (2005). *Child Custody and Access*. Retrieved from <http://www.hkreform.gov.hk/en/docs/raccess-e.pdf>

<sup>59</sup> Labour and Welfare Bureau (2015). *The Proposed Legislation to Implement the Recommendations of The Law Reform Commission Report on Child Custody and Access*. Retrieved from [http://www.lwb.gov.hk/parentalresponsibility\\_consult/doc/Consultation\\_Paper\\_\(Chi\).pdf](http://www.lwb.gov.hk/parentalresponsibility_consult/doc/Consultation_Paper_(Chi).pdf)

<sup>60</sup> Labour and Welfare Bureau (2016). *The Proposed Legislation to Implement the Recommendations of The Law Reform Commission Report on Child Custody and Access*. Retrieved from [http://www.cmab.gov.hk/doc/tc/documents/policy\\_responsibilities/the\\_rights\\_of\\_the\\_individuals/human/Paper\\_CRF\\_1\\_2016\\_c.pdf](http://www.cmab.gov.hk/doc/tc/documents/policy_responsibilities/the_rights_of_the_individuals/human/Paper_CRF_1_2016_c.pdf)

Practice Direction-15.10 came into effect on 2 May 2012. It prescribes the procedure to be followed by the petitioner, the respondent, and the applicant or their legal representatives, when instituting matrimonial proceedings. It stipulated that “when a person consults a solicitor and decides to institute Matrimonial Proceedings / Family Proceedings, the solicitor shall advise that person of the availability of a mediation service and how it may assist in the proceedings, and shall give to that person the Leaflet [as prepared by the FMCO] on the service”<sup>61</sup>.

#### ***2.7.3.4 The Children’s Dispute Resolution***

On the filing of a divorce petition that involves disputes over a child by a party, three child issues must be dealt with, i.e., custody (joint or sole custody), care and control (the child should live with which parent) and access (visiting the child)<sup>62</sup>. The process of settling child disputes very often has a negative impact not only on the parents but also on the children. To minimize the negative impact on children in a divorce proceeding, a new Practice Direction 15.13 was published on 3 October 2012 and the new Children’s Dispute Resolution (CRD) Pilot Scheme was launched. The objective of the mandatory pilot scheme was “...to support mothers and fathers, so that they are able to effectively parent their children post separation or divorce. The intention is to ensure that whilst the welfare of children remains the court’s paramount concern, lasting agreements concerning the children are obtained quickly and in a less adversarial atmosphere. The focus is on the

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<sup>61</sup> The Judiciary (2016). Practice Direction – 15.10. Family Mediation. Retrieved from [legalref.judiciary.gov.hk/lrs/common/pd/pdcontent.jsp?PD15.10.htm&lang=EN](http://legalref.judiciary.gov.hk/lrs/common/pd/pdcontent.jsp?PD15.10.htm&lang=EN)

<sup>62</sup> Flowchart for divorce in Hong Kong retrieved from [http://www.clic.org.hk/en/topics/familyMatrimonialAndCohabitation/divorce/Flowchart\\_for\\_divorce\\_in\\_Hong\\_Kong/index.shtml](http://www.clic.org.hk/en/topics/familyMatrimonialAndCohabitation/divorce/Flowchart_for_divorce_in_Hong_Kong/index.shtml)

best interests of the children as well as the duties and responsibilities of their parents.”<sup>63</sup> Under the CRD, the court requires detailed information in respect of the children, their current arrangements and the proposed arrangements for their future. Indeed, this pilot scheme involves the concept of mediation for parents when settling child issues and is closely related to the recent reform on children proceedings in divorce.

#### ***2.7.3.5 The Draft of Children Proceedings (Parental Responsibility) Bill***

The existing law defines the parent-child relationship in terms of the "rights" and "authority" of each parent regarding their child(ren). The role of the court is seen as being to divide up this bundle of rights and authority between parents when they divorce, which often results in dwindling contact between the child and the non-custodial parent. In 2005, the HKLRC published a report titled “Report on Child Custody and Access”. In this report, the HKLRC proposes that the term “child custody” should be replaced with “parental responsibility”, and take the child(ren)’s best interests into account in family proceedings. Two public consultations on the report were released in the following decade. The first one was released between December 2011 and April 2012 by the Labour and Welfare Bureau (LWB) to collect feedback from the public on the recommendation to implement the “parental responsibility model” through legislative reforms. The majority of the opinions from the public supported the new concept, but there were concerns about the actual legal provisions and the measures for supporting implementation. Therefore, a second public consultation was launched from November 2015 to March 2016 to invite public views about the draft Children Proceedings (Parental Responsibility) Bill and

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<sup>63</sup> The Hong Kong Lawyer - Putting More Focus on Children: The Children’s Dispute Resolution Pilot Scheme retrieved from <http://www.hk-lawyer.org/content/putting-more-focus-children-children%E2%80%99s-dispute-resolution-pilot-scheme>

relevant supporting measures. The consultation has just finished and the proposed legislation is still in progress. This Bill, if enacted and implemented, would emphasize continuing parental responsibility upon divorce.

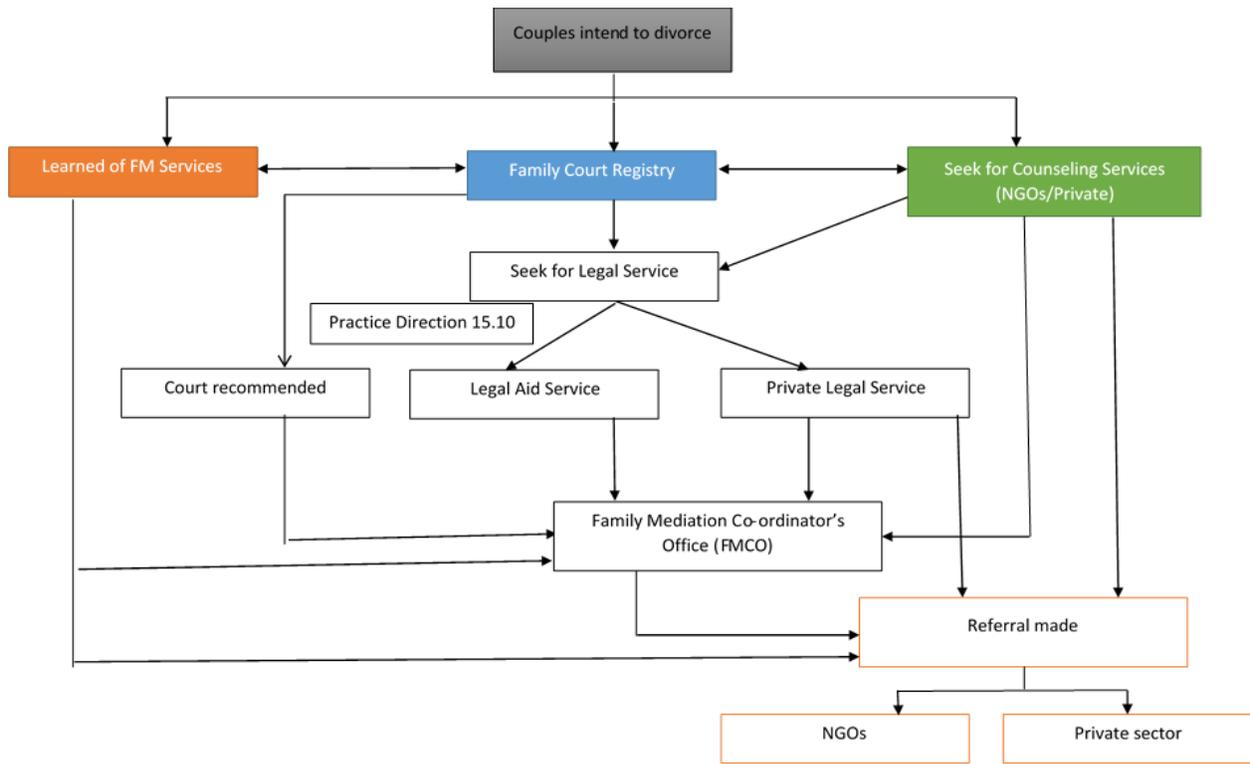
#### **2.7.4 Service Model**

Diagram 2.1 shows the flowchart for the process by which divorcing couples can access family mediation. Family mediation is made available as an option for couples either before or throughout their divorce and ancillary proceedings<sup>64</sup>. When they learn of the service, divorcing couples can access the service before petitioning for a divorce, and can approach the service directly or via the FMCO. Divorcing couples who have been using counseling services from NGOs or the private sector before filing their divorce petition, can also access the service through referrals from their social workers or counselors. When couples have filed for divorce at Family Court Registry, judges of the court may advise the divorcing couples to settle their disputes during the court proceedings before a final order is granted. It is a usual practice for family judges to refer the divorcing couples to the FMCO as it is located in the Family Court building. Apart from the referrals made by the judges, the divorcing couples can approach the service themselves or through referrals from legal professionals and social workers during the litigation. If mediation is unsuccessful, the litigation will proceed.

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<sup>64</sup> Wong, R. (2016). *Seminar on the current development and issues of mediation in Hong Kong*.

**Diagram 2. 1 Flowchart of Access to Services**



At present, family mediation adopts a parallel/ a pluralistic service delivery model comprised of a court-based mediation service and a community-based mediation service. The court-based mediation service is provided by the FMCO. It was established by the Judiciary with the aim of assisting the implementation of the pilot scheme in 2000. With a proven record of helping separating / divorcing couples to resolve their problems in a non-adversarial approach, it continues to offer services to the public after the completion of the pilot scheme. It answers enquiries about family mediation, offers information sessions on family mediation, and provides pre-mediation consultations and relevant information for the parties to consider. It also provides information about applying for such a service, and liaises with mediators. A list of mediators including those from NGOs

and those from private practice is available in the office. All the services are free of charge<sup>65</sup>.

Regarding the community-based family mediation services, the main service providers are social workers from NGOs or are private practitioners. As of December 2009, there were eight NGOs providing family mediation services including the HKCMAC, the HKFWS, the Caritas – Hong Kong (Caritas), the International Social Service Hong Kong Branch (ISS), the Shatin Alliance Community Services Center (SACSC), the Yang Memorial Methodist Social Service (YMMSS), the Hong Kong Christian Service (HKCS) and the Hong Kong Sheng Kung Hui Welfare Council (HKSKHWC)<sup>66</sup>. Whereas the HKCMAC and the HKFWS have set up a family mediation center and hired full time mediators to provide a service to the general public, the other six NGOs integrate their family mediation services with other social services. Apart from the NGOs, there are private practitioners with professional backgrounds in fields such as law, counseling, psychology, education and medicine that render family mediation services to the general public within their work settings such as law firms, educational institutions, or counseling centers.

### **2.7.5 Caseloads, Cost and Time Used**

Based on the statistics from the Judiciary<sup>67</sup>, 1,435 cases were referred to independent mediators through the FMCO from 1<sup>st</sup> August 2003 to 31<sup>st</sup> December 2012,

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<sup>65</sup> The Judiciary (2016). Family Mediation Coordinator's Office. Retrieved from [mediation.judiciary.gov.hk/en/mcos.html](http://mediation.judiciary.gov.hk/en/mcos.html)

<sup>66</sup> Department of Justice (2010). *Report of the working group on mediation. Annex 1* (pp.141 – 144). HKSAR: Department of Justice.

<sup>67</sup> The Judiciary (2016). *Mediation Statistics for cases in Matrimonial / Family Proceedings*. Retrieved from

with an average of around 160 cases per year. The number of cases referred by the FMCO steadily increased to 235 cases in 2013 and 230 cases in 2014<sup>68</sup>. In 2013 and 2014, the success rate, based on the cases completed through mediation, increased from 69% to 74%. On average, the hours used to reach full, partial and no agreement was 15 hours, 20 hours and 9.5 hours respectively. Regarding the cost of the mediated cases, in 2013, it was, on average, \$7,100 per case / \$500 per hour for a case with full agreement, \$11,100 per case / \$500 per hour for a case with partial agreement and \$7,500 per case / \$500 per hour for a case in which no agreement was reached. In 2014, it was, on average, \$7,800 per case / \$500 per hour for a case with full agreement, \$6,900 per case / \$300 per hour for a case with partial agreement and \$3,200 per case / \$400 per hour for a case with no agreement. Although the statistics only cover cases referred by the FMCO, they are representative of the current situation of family mediation services in Hong Kong. The statistics reflect the fact that the number of family meditation cases has been increasing steadily since the completion of the pilot scheme in 2004 and that mediation is less costly in terms of money and time when compared with litigation.

#### **2.7.6 Fee Charging Mechanism (Table 2.1 to Table 2.4)**

Family mediation is a fee-charging service .The charge ranges from nothing to a few thousand dollars per session. Table 2.1 to Table 2.4 shown the family mediation service fee of four NGOs. Generally speaking, the fees of NGOs are relatively lower than those of private practitioners. While, the standard fee for a one-hour family mediation

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mediation.judiciary.gov.hk/eng/figures\_and\_statistics.html#msfcimfp

<sup>68</sup> The Judiciary (2016). *Mediation Statistics for cases in Matrimonial / Family Proceedings*. Retrieved from mediation.judiciary.gov.hk/eng/figures\_and\_statistics.html#msfcimfp

session per party is around \$500 to \$600 in NGOs, it is approximately one thousand to a few thousand dollars for private practitioners. As we do not have a consent from these NGOs to disclose their price list in the report, their agency names are anonymous in order to protect their privacy. Besides that, we have difficulties to obtain a comprehensive price list of other non-sponsored NGOs and the private sector. However, we believe that the fee-charging of these four NGOs are affordable by the general public as indicated from the findings of this research study (Please refer to Chapter 5 and 6).

**Table 2. 1 Family Mediation Service Fee of Agency A**

<b>Individual Monthly Income</b>	<b>Registration Fee for the First Individual Interview</b>	<b>Mediation Fee (Calculation &amp; Payment on Individual Basis)</b>
<b>\$0 - \$ 10,000 or CSSA recipients</b>	\$ 0 (Waived \$0)	\$ 0 (Waived \$0)
<b>\$ 10,001 - \$ 25,000</b>	\$ 100	\$ 50 per hour
<b>\$ 25,001 - \$ 35,000</b>	\$ 100	\$ 100 per hour
<b>\$ 35,001 - \$ 50,000</b>	\$ 100	\$ 300 per hour
<b>\$ 50,001 and above</b>	\$ 100	\$ 500 per hour

**Table 2. 2 Family Mediation Service Fee of Agency B**

<b>Individual Monthly Income</b>	<b>Registration Fee (On Individual Basis)</b>	<b>Mediation Fee (Calculation &amp; Payment on Individual Basis)</b>
<b>\$0 - \$ 10,000 &amp; CSSA recipients</b>	Free of Charge	Free of Charge
<b>\$ 10,001 - \$ 20,000</b>	\$100	\$50 per hour
<b>\$ 20,001 - \$ 60,000</b>	\$100	Hourly rate : 1% of individual party's monthly income
<b>\$ 60,001 and above</b>	\$100	\$ 600 per hour

**Table 2. 3 Family Mediation Service Fee of Agency C**

<b>Individual Income</b>	<b>Fee Charging (Hourly Rate)</b>
<b>On CSSA or income less than \$4,000</b>	Free of Charge
<b>\$4,001 and above</b>	2% of income

**Table 2. 4 Family Mediation Service Fee of Agency B**

<b>Individual Income</b>	<b>Registration Fee (Each person only pays this after the first interview session)</b>	<b>Mediation Fee (Each individual interview or joint session )</b>
<b>\$ 0 - \$ 10,000 or CSSA recipients</b>	Subsidized by family mediation trial scheme (2013/14)	
<b>\$ 10,001 - \$ 20,000</b>	\$ 50.	\$ 150.
<b>\$ 20,001 - \$ 40,000</b>	\$ 50.	\$ 200.
<b>\$ 40,001 - \$ 60,000</b>	\$ 50.	\$ 400.
<b>\$ 60,001 and above</b>	\$ 50.	\$ 600.

While users who are able to pay for the service bear the cost, those who could not afford the service are able to gain access to the service through an exemption of all or part of the fees. There are a number of funding sources provided to different NGOs such as the LAD, the Jockey Club, the Community Chest and the FC Pilot Scheme that are available to provide sponsorship. However, it is unclear about the distribution of these sponsorships in each service unit due to the concern of privacy. The subsidies provided by the LAD are for applicants for legal aid. Mediation fees will be covered in the cost of legal aid should applicants for legal aid choose family mediation to resolve their divorce-related disputes. The subventions of the Jockey Club and the Community Chest are available for users who are from low income families but are not eligible for legal aid. In 2012, a new funding

source, the FC Pilot Scheme, was launched. The sponsorship period covered two phases: the first was from May 2012 to June 2014 and the second phase was from July 2014 to January 2016. Whereas four NGOs, namely the Caritas, the HKFWS, the HKCMAC and the YMMSS joined the first phase of the sponsorship, the last three NGOs continued the sponsorship during the second phase. The funding covers remuneration for the mediators which is calculated on the basis of an estimated hourly rate of \$450, with a ceiling of 24 hours (16 hours for the service plus another 8 hours for preparation and other logistic support). The hourly rate was raised to \$500 starting from 1 August 2014. A monthly threshold is set for eligible users, being \$10,000 or less for individuals and \$20,000 or less per household.

### **2.7.7 Training, Accreditation and Code of Practice**

Since the 1990s, training courses have been provided for mediators for the purposes of accreditation and quality assurance. In August 2012, the HKMAAL was established with the intention that it would become the single accreditation body with accreditation and disciplinary functions for mediators in Hong Kong<sup>69</sup>. In order to be qualified for accreditation as a family mediator, several criteria are set by the HKMAAL and must be met. First of all, a candidate must have three years of work experience. In addition, a candidate should have a degree or a post graduate qualification in social work, psychology, counseling or law, and complete a basic family mediation training course or courses of 40 hours. After satisfactorily completing the course, a trainee must then

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<sup>69</sup> Hong Kong Meditation Accreditation Association Limited. (2014). *Panel on administration of justice and legal service. Progress report from Hong Kong Meditation Accreditation Association Limited "HKMAAL"*. Retrieved from [www.legco.gov.hk/yr13-14/english/panels/ajls/papers/aj0722cb4-939-2-e.pdf](http://www.legco.gov.hk/yr13-14/english/panels/ajls/papers/aj0722cb4-939-2-e.pdf)

participate in two live family mediations under a supervisors' supervision. Completion of an advanced family mediation training course is the last stage before application to the HKMAAL<sup>70</sup> for accreditation. After that, a candidate is able to apply for accreditation.

In July 2014, the HKMAAL and the FMCO jointly launched the Pilot Scheme to enhance the accreditation of family mediators. The project has two aims that are pertinent to the development of the family mediation profession as a whole: (a) to provide more live supervision opportunities for trainee family mediators as well as general mediators seeking to be accredited as family mediators; and (b) to raise the professional standard of family mediation practice in Hong Kong<sup>71</sup>.

As of January 2015, there were 245 accredited family mediators and supervisors, including 84 mediators / supervisors who are also accredited as general mediators in Hong Kong. They are included in the list of the members of the panel of the HKMAAL, the Hong Kong Mediation Council (HKMC), the Hong Kong Bar Association (HKBA) and the Law Society of Hong Kong (LSHK)<sup>72</sup>. The list of members of the panel of the HKMAAL has included family mediators and supervisors with diversified backgrounds. At present, it includes 200 family mediators and supervisors. Among them, 104 have a social work background, 78 are legal professionals, and 18 are other professionals such as professors, nurses, and psychologists<sup>73</sup>. All the practicing family mediators / supervisors should comply with the Hong Kong Mediation Code and Mediation Rules<sup>74</sup>.

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<sup>70</sup> Hong Kong Mediation Accreditation Association Limited. Retrieved from [http://www.hkmaal.org.hk/en/HowToBecomeAMediator\\_F.php](http://www.hkmaal.org.hk/en/HowToBecomeAMediator_F.php)

<sup>71</sup> Lam, J. & Lam, A. (2015). The Current Development Issues of Mediation in Hong Kong.

<sup>72</sup> Hong Kong Mediation Accreditation Association Limited. Retrieved from [http://www.hkmaal.org.hk/en/HowToBecomeAMediator\\_F.php](http://www.hkmaal.org.hk/en/HowToBecomeAMediator_F.php)

<sup>73</sup> Hong Kong Mediation Accreditation Association Limited. (2016). Mediators Panels. Retrieved from

## 2.7.8 Approaches to Mediation and the Mediation Process

In Hong Kong, there are two commonly used mediation approaches: therapeutic and facilitative<sup>75,76, 77</sup>

The Therapeutic Family Mediation Model (TFMM) was introduced by Professor Howard from the University of Toronto in the late 1980s. It pays special attention to relational and emotional issues in addition to substantive issues, which makes it different from other practice models. A family mediator who adopts this approach often looks at wider aspects of the relationship between the parties and how that may have contributed to the dispute, and explores the past and the current circumstances with a particular focus on children's best interests. Using this model requires a thorough understanding of systematic family therapy theories and skills, in order to handle the client's emotional problems and ineffective interactions.

The Facilitative Family Mediation Model (FFMM) was introduced to Hong Kong in 1996 by some scholars from Bond University, Australia. The main purpose of the FFM model is to help clients achieve a resolution using an 'interest-based' approach instead of a 'rights-based' approach. An 'interest-based' approach focuses on the underlying needs or interests of the couples and encourages a broader range of solutions or resolutions to the dispute. The mediator structures a process to assist the couples to reach a mutually

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[www.hkmaal.org.hk/en/index.php](http://www.hkmaal.org.hk/en/index.php)

<sup>74</sup> Hong Kong Mediation Accreditation Association Limited. (2016). Mediators Panels. Retrieved from [www.hkmaal.org.hk/en/index.php](http://www.hkmaal.org.hk/en/index.php)

<sup>75</sup> Chan, Y. L., Cheng, Y. W., Chow, S. L., NG, Y. B., Cheng, C. S. H., TSE, L. T., Lo, M. M., & Wong Yip, C. F. (2010). *Family Mediation Handbook of Hong Kong (Fourth Edition)*. Hong Kong: The Hong Kong Catholic Marriage Advisory Council, p82.

<sup>76</sup> Irving, H. H. (2002). *Family Mediation: Theory and Practice with Chinese Families*. Hong Kong: Hong Kong University Press, p43-44.

<sup>77</sup> Simple guide to Mediation in Hong Kong. Retrieved from [http://www.gycmokco.com.hk/article\\_guide2mediation.htm](http://www.gycmokco.com.hk/article_guide2mediation.htm)

agreeable resolution. One of the important features of facilitative mediators is that they do not make recommendations to the clients, give their own advice or opinions as to the outcome of the case, or predict what a court would do in the case. The mediator is only in charge of the process, while the clients are in charge of the outcome.

In Hong Kong, family mediators are free to choose their approaches and their choices are not stipulated by any laws and regulations. Whether using the TFM or the FFM model, the family mediation process can be broadly divided into three stages, namely pre-mediation, mediation and post mediation. Table 2.5 shows the respective tasks of the two models during these three stages.

**Table 2. 5 Mediation Process of the TFM and the FFM model**

<b>Stages</b>	<b>The TFM model</b>	<b>The FFM model</b>
<b>Pre-mediation</b>	Mediation assessment & Pre-mediation meeting	Preparatory matters
<b>Mediation</b>	Negotiation & Termination	Mediation meetings
<b>Post-mediation</b>	Follow-up	Post-mediation activities

The pre-mediation process is defined as an initial contact, providing information, and assessment. In both models, the pre-mediation stage is used to engage and to provide information about family mediation such as whether or not the mediation is required by the court, who has authority to decide, the extent of confidentiality, the needs or preferences of the party, fee charging, and general processing etc. Family mediators will also assess whether or not the case is suitable for family meditation, considering such factors as whether or not there is any domestic violence, a significant power imbalance between the parties, or if one party is hostile to another one, etc. Pre-mediation sessions are usually individual sessions. In the TFM model, a family mediator will also conduct

joint sessions. The purpose of the joint meeting is to better prepare the divorcing couples if the family mediators identify some issues that may hinder the mediation process. For example, if the couples are unable to communicate with one another, the family mediator may enrich their communication skills. When the couples are overwhelmed by emotional or relational issues, the family mediators may provide further support to them for resolving the issues. Appropriate referrals such as for counseling, or legal services, may be made if needed at this stage.

The mediation stage mainly involves the negotiation of disputed issues faced by the divorcing couples. In the FFM model, this stage is divided into two phases: the problem-defining phase and the problem-solving phase. Each of the two phases is subdivided into 5 sub-stages. In the first phase, it includes: 1) the preliminaries, 2) the mediator's opening, 3) the party presentations, 4) identifying areas of agreement and 5) defining and ordering the issues in the problem-defining stage. The second phase includes: 1) negotiating and decision making, 2) the separation meetings, 3) final decision making, 4) recording the decisions and closing statements and 5) termination of the problem solving stage. The negotiation process of TFM, however, does not have a detailed structure. A family mediator will conduct the process strategically based on the responses of the divorcing couple during the process.

Once the mediation sessions are over, the mediation is at the post-mediation stage. The tasks that need to be done may include finalization of the agreement; fulfillment of conditional aspects of the agreement (e.g., appointment of a director or transfer of shares); ratification or sanction of the agreement (e.g., by the Family Court in respect of the

settlement of a family dispute); and preparation of a mediation report, if required. At the end of a follow-up meeting, a mediator may make a phone call or issue a letter acknowledging the closure of the mediation and expressing thanks to the participants and their lawyers etc. for attending the sessions. However, mediators rarely follow up on the divorcing couple's compliance with the agreement once the mediation process is over.

### **2.7.9 Roles and Responsibilities of Stakeholders**

In Hong Kong, family mediation services are delivered through a collaboration of different stakeholders. Family mediators and family mediation supervisors are the unbiased and the impartial parties who render family mediation to divorcing couples directly. Family mediation supervisors, who are also experienced family mediators, could provide training (e.g., talks and workshops) and / or live supervision for trainees as well. Family mediators / family mediation supervisors either are working in non-governmental organizations (NGOs) (e.g., the HKFWS, the HKCMAC, the Caritas, the YMMSS, the ISS) or in the private sector such as in legal firms, educational institutions, churches, and other associations etc. Besides the above, provision of family mediation services is supported by various government departments such as the FMCO, the LAD, the HAB and the SWD, and professional associations such as the HKMAAL, the HKMC, the HKBA, the LSHK, and the HKAIC. Whereas the roles and the responsibilities of the government departments included service provision (e.g., the court-based services provided by the FMCO of the Judiciary), funding sources (the LAD and the HAB) and service referral (e.g., the SWD, the LAD), the roles and the responsibilities of the professional associations are to provide a panel list of family mediators / family mediation supervisors

(i.e., the HKMAAL, the HKMC, the HKBA, the LSHK and the HKAIC) or to deliver training, quality assurance, and accreditation of family mediators / family mediation supervisors (i.e., the HKMAAL).

## **2.8 Comparison between Hong Kong and other selected countries**

This section aims at comparing the family mediation in Hong Kong with six selected countries. The development of family mediation in Hong Kong is embedded in a unique political, social and cultural background as mentioned previously. Although we do not have a long history of development compared with countries like Australia, England and Wales, Canada, U.S.A. and Singapore, family mediation in Hong Kong has been developed to be comparable with other places in terms of the professional quality of family mediators and the success rate. The professional quality of family mediators is ensured by the training and the accreditation provided by professional bodies, specifically, the HKMAAL in Hong Kong. At present, there is no one single professional body of mediators in Hong Kong, but all family mediators have to comply with the code of practice set by the HKMAAL as a way to monitor their professional competence. In this case, the situation is more or less like the practice in Australia, England and Wales, Canada and Singapore. Regarding the success rate in Hong Kong, it is a bit difficult to compare it with the other countries because the sources of statistics are different, implying that they may use different standards and criteria to define “success”. Moreover, the statistics shown are covering different periods of time that may be unworthy of comparison. However, as discussed earlier, the overall success rate in Hong Kong is quite high: approximately over 70% in 2014. It is a very satisfactory outcome, especially when

we compare the success rate with those places that have a long history of development like Australia, England and Wales, Canada, and U.S.A.

Unlike most of these places in which family mediators usually use only one family mediation approach, i.e., the FFM, local family mediators can adopt either the TFM or the FFM approach. As there is evidence that both models are effective approaches to family mediation, the parallel development and adoption of the two models are advantageous to our service users because family mediators can flexibly use the model that is the most suitable for the needs and the circumstances of the client.

Notwithstanding that, these countries have some good practices that may be relevant to our local situation. First, except for Australia, other countries have made the service mandatory to a certain extent. For example, in England and Wales, the U.S.A., and Singapore, divorcing couples are mandated to use family mediation when they involve child dispute issues. Canada makes all divorcing couples attend a mandatory information session and England and Wales makes the service mandatory for legal aid recipients. Moreover, Australia and Singapore facilitate the involvement of children in mediation through the child-inclusive mode and compulsory involvement for children aged 14 to 21 respectively. In Hong Kong, divorcing couples are mandated to obtain information on family mediation when they institute Matrimonial Proceedings / Family Proceedings only. There are also no standardized guidelines for involving children in the mediation process. To maximize the use of family mediation and to promote the best interests of the children, we should re-consider if, to a certain extent, it is necessary to make the service and the involvement of children in the mediation process mandatory.

Apart from that, we observe that family mediation in most places is either fully or partially subsidized by the government. For example, in Singapore, the service are free of charge and are fully supported by the government. In Canada, even though mediation is implemented on a voluntarily basis, the mandatory information session is free of charge and the service are charged through sliding scale related to salary. In Hong Kong, although we have some financial schemes that have been launched either by the government or other funding bodies, these schemes are short-term and project-based, and mainly support service users who are living on welfare or are from low income groups. The majority of service users are still self-financed. We believe that a sustainable funding source is pivotal to encourage divorcing couples to use the service.

## **2.9 Summary**

This chapter reviews the historical development and the practice of family mediation in several countries and in Hong Kong. Apart from the descriptions of the related laws and reports on family mediation, we gave an account of the characteristics of the service in each place, including the service models, the fee charging mechanisms, the service providers, the codes of conduct of family mediators and the success rates. We find that there is no uniform implementation and practice of mediation among these places due to their unique contexts. We also compared and contrasted the practice in Hong Kong and six countries and conclude that our service is well-developed in terms of the professional standards of family mediators, the success rate and the mediation approaches. With reference to the practice in these other places, we may consider making the service

mandatory to certain extent and providing a sustainable funding source in order to further promote the use of the service by divorcing couples.

## CHAPTER 3: AN OVERVIEW ON FAMILY COUNCIL PILOT SCHEME

In May 2012, a two-year Pilot Scheme was launched by the FC through the HAB to provide direct sponsorship to interested NGOs for the provision of family mediation services particularly targeting low income families. The detail description of the aims, eligible applicants, service providers, and fee structure of the Pilot Scheme can be referred to the Consultancy Brief section 2.7.6.

Table 3.1 shows that during the first phase (August 2012 to July 2014), a total of 263 cases had been subsidized and the overall success rate was 47%. During the second phase (August 2014 to January 2016), a total of 154 cases had been subsidized and the overall success rate was 75%.

**Table 3. 1 The Caseload and Success Rate of the FC’s Pilot Scheme as at January 2016**

Sponsored organization	August 2012 – July 2014		August 2014 – January 2016	
	Caseload (number of completed case)	Success rate <sup>78</sup>	Caseload (number of completed case)	Success rate
the Caritas–Hong Kong (Caritas)	32 (30)	63%	- <sup>79</sup>	-
Hong Kong Catholic Marriage Advisory Council (HKCMAC)	157 (139)	32%	64 (54)	65%
Hong Kong Family Welfare Society (HKFWS)	73 (72)	69%	88 (78)	59%
Yang Memorial Methodist Social Service (YMMSS)	1 (1)	0%	2 (2)	100%
<b>Total</b>	<b>263 (242)</b>	<b>47%</b>	<b>154 (134)</b>	<b>75%</b>

<sup>78</sup> Success rate of achieving full/partial settlement is calculated based on completed cases.

<sup>79</sup> Caritas withdrew the Scheme at the second phase.

An analysis of the data captured from the four organizations' records of 417 mediation cases (831 users) completed by the end of January 2016 revealed the following profiles of the users of the service.

### 3.1 Monthly Income (Table 3.2 to Table 3.3)

Generally, most of the users had a monthly income below \$10,000; yet that of male users were higher than the female's.

In the year 2015-2016, the majority of the male users (42.68%) in the sample had a monthly income between \$10,001 and \$20,000, while the majority of female users (73.63%) had their monthly income less than \$10,000. In comparison with the previous year, the monthly income of male users has gradually increased since 2012. On the contrary, the percentage of female users with income less than 10,000 rose from 68.71% to 79.31% between 2012 and 2014, though slightly reduced to 73.63% in 2015.

**Table 3. 2 Monthly Income of the Male Party**

Financial Year	0-10,000 or CSSA		10001- 20000		20001- 30000		30001+		Total	
	N	%	N	%	N	%	N	%	N	%
2012-2013	75	51.02	50	34.01	15	10.20	7	4.76	147	100.00
2013-2014	55	48.67	40	35.40	11	9.73	7	6.19	113	100.00
2014-2015	23	39.66	28	48.28	5	8.62	2	3.45	58	100.00
2015-2016	28	34.15	35	42.68	12	14.63	7	8.54	82	100.00

**Table 3. 3 Monthly Income of the Female Party**

Financial Year	0-10,000 or CSSA		10001- 20000		20001- 30000		30001+		Total	
	N	%	N	%	N	%	N	%	N	%
2012-2013	101	68.71	30	20.41	8	5.44	8	5.44	147	100.00
2013-2014	87	77.68	21	18.75	1	0.89	3	2.68	112	100.00
2014-2015	46	79.31	10	17.24	1	1.72	1	1.72	58	100.00
2015-2016	67	73.63	18	19.78	4	4.40	2	2.20	91	100.00

### 3.2 Asset Values (Table 3.4 to Table 3.7)

The percentage of male users without any asset in the year 2015-2016 was 17.65%, which was the same as that of female users. Although there was an increase in 2013, the percentage of both parties who had no asset at all had a sharp decrease from 2012 to 2015 on the whole.

**Table 3. 4 Asset of the Male Party**

Financial Year	Without assets		With assets		Total	
	N	%	N	%	N	%
2012-2013	73	48.03	79	51.97	152	100.00
2013-2014	49	66.22	25	33.78	74	100.00
2014-2015	8	42.11	11	57.89	19	100.00
2015-2016	3	17.65	14	82.35	17	100.00

**Table 3. 5 Asset of the Female Party**

Financial Year	Without assets		With assets		Total	
	N	%	N	%	N	%
2012-2013	82	53.95	70	46.05	152	100.00
2013-2014	62	74.70	21	25.30	83	100.00
2014-2015	8	44.44	10	55.56	18	100.00
2015-2016	3	17.65	14	82.35	17	100.00

Among the male users who indicated having assets, their asset values ranged from \$565 to \$9,497,000, with an average value around \$1,319,579 to \$2,706,354. Meanwhile, for female users who had assets, the values ranged from \$190 to \$8,000,000, with an average value around \$898,615 to \$2,274,020. This suggests that male users had more assets than female users.

**Table 3. 6 Asset Values of the Male Party (Unit: HK\$)**

Financial Year	N	Mean	SD	Median	Min	Max
2012-2013	79	1,319,579	1,882,588	300,000	565	9,497,000
2013-2014	25	1,483,872	1,384,987	1200,000	1,000	4,500,000
2014-2015	11	2,706,354	1,554,944	3000,000	2,354	4,350,000
2015-2016	14	2,074,585	2,425,927	1100,000	5,000	7,400,000

**Table 3. 7 Asset Values of the Female Party (Unit: HK\$)**

Financial Year	N	Mean	SD	Median	Min	Max
2012-2013	70	898,615	1,629,010	53,500	190	8,000,000
2013-2014	21	1,190,829	1,399,505	480,000	2,500	4,500,000
2014-2015	10	2,274,020	1,652,392	2,350,000	1,665	4,888,535
2015-2016	14	1,987,857	2,434,026	1,000,000	3,000	7,200,000

**3.3 Hourly Charges (Table 3.8 to Table 3.11)**

One third (33.73%) of the male users had the mediation service free of charge in the year 2015-2016, which was 27% lower than that in 2012. Meanwhile, around two thirds (71.74%) of the female users were charged at no cost. This percentage remained stable between 2012 and 2015.

**Table 3. 8 Fee Charging of the Male Party**

Financial Year	Free		Paid				Legal aid	
			Standard rate		Others			
	N	%	N	%	N	%	N	%
2012-2013	95	60.90	17	10.90	44	28.20	-	-
2013-2014	79	65.29	14	11.57	28	23.14	-	-
2014-2015	24	38.71	-	-	36	58.06	2	3.23
2015-2016	28	33.73	1	1.20	51	61.46	3	3.61

**Table 3. 9 Fee Charging of the Female Party**

Financial Year	Free		Paid				Legal aid	
			Standard rate		Others			
	N	%	N	%	N	%	N	%
2012-2013	105	67.31	34	21.80	14	8.97	3	1.92
2013-2014	84	68.85	22	18.03	12	9.84	4	3.28
2014-2015	44	70.97	13	20.97	-	-	5	8.06
2015-2016	66	71.74	22	23.91	-	-	4	4.35

A growing number of male users paid for the service, and the mean value of the fee per hour was \$114.39 in 2015. For the female party, the average hourly charges reduced sharply from \$137.35 to \$85.

**Table 3. 10 Hourly Charges of the Male Party (Unit: HK\$)**

Financial Year	N	Mean	SD	Median	Min	Max
2012-2013	44	138.18	112.75	100	50	380
2013-2014	28	130.00	97.07	100	50	300
2014-2015	36	99.17	123.57	50	50	500
2015-2016	51	114.39	122.67	50	50	500

**Table 3. 11 Hourly Charges of the Female Party (Unit: HK\$)**

Financial Year	N	Mean	SD	Median	Min	Max
2012-2013	34	137.35	118.38	100	50	450
2013-2014	22	115.91	90.48	75	50	300
2014-2015	13	139.23	188.66	50	50	600
2015-2016	22	85.00	104.41	50	50	500

**3.4 Amount of Subsidies Received (Table 3.12 to 3.13)**

Table 3.12 summarizes subsidies receiving from the FC Pilot Scheme and fees collected from divorcing couples. As can be seen from Table 3.12., subsidies accounted for the majority of the total income of each year: 94.29%, 96.74%, and 91.53%, respectively.

**Table 3. 12 Income of Agencies under the Pilot Scheme**

	Fee collected from	Caritas	CMAC	HKFWS	YMMSS	Total (%)
<b>1 August 2012 to 31 July 2013</b>	Disbursement	162,000.00	666,288.00	250,978.00	13,500.00	1,092,766.00 (94.29%)
	Both parties	-	31,100.00	33,094.00	-	64,194.00 (5.54%)
	On party	-	2,000.00	-	-	2,000.00 (0.17%)
	<b>Total</b>	<b>162,000.00</b>	<b>699,388.00</b>	<b>284,072.00</b>	<b>13,500.00</b>	<b>1,158,960.00 (100%)</b>
<b>1 August 2013 to 31 July 2014</b>	Disbursement	81,000.00	578,126.00	100,050.00	13,500.00	772,676.00 (96.74%)
	Both parties	-	15,550.00	6,725.00	329.00	22,604.00 (2.83%)
	On party	-	3,350.00	50.00	-	3,400.00 (0.43%)
	<b>Total</b>	<b>81,000.00</b>	<b>597,026.00</b>	<b>106,825.00</b>	<b>13,829.00</b>	<b>798,680.00 (100%)</b>
<b>1 August 2014 to 31 January 2016</b>	Disbursement	-	360,000.00	281,250.00	15,000.00	656,250.00 (91.53%)
	Both parties	-	25,937.50	25,930.50	3,700.00	55,568.00 (7.75%)
	On party	-	325.00	3,800.00	1,0505.00	5,175.00 (0.72%)
	<b>Total</b>	<b>-</b>	<b>386,262.50</b>	<b>310,980.50</b>	<b>19,750.00</b>	<b>716,993.00 (100%)</b>

Table 3.13 shows that on average, around half of the divorcing couples (i.e., ranged from 51.09% to 66.26%) used the family mediation services for free, although there was a decrease of the number of free users from 2012 to 2016.

**Table 3. 13 Percentage of Free Users**

	N			Total users	%
	Male party	Female party	Total		
<b>2012-2013</b>	95	105	200	316	63.29
<b>2013-2014</b>	79	84	163	246	66.26
<b>2014-2015</b>	24	44	68	122	55.74
<b>2015-2016</b>	28	66	94	184	51.09

### 3.5 Resolution (Table 3.14)

In 2015, 47.83% of the divorcing / separating couples who used the mediation service reached a full agreement, 5.43% a partial agreement, and 23.91% no agreement. There are still 21 ongoing cases (22.83%). The success rate of achieving full settlement rose from 37.34% in 2012 to 47.83% in 2015, while the rate of achieving no agreement decreased sharply from 43.67% to 23.91% accordingly.

**Table 3. 14 Resolution**

Financial Year	Full		Partial		No agreement		Not yet		Total	
	N	%	N	%	N	%	N	%	N	%
<b>2012-2013</b>	59	37.34	-	-	69	43.67	30	18.99	158	100.00
<b>2013-2014</b>	43	34.96	-	-	61	49.59	19	15.45	123	100.00
<b>2014-2015</b>	32	52.46	3	4.92	26	42.62	-	-	61	100.00
<b>2015-2016</b>	44	47.83	5	5.43	22	23.91	21	22.83	92	100.00

### 3.6 Time Spent (Table 3.15)

The average time spent on preparation and mediation phases were 5.27 hours and 7.34 hours respectively in 2015, which were slightly increased compared with 2012. In total, the average time spent ranged from 8.95 to 12.61 hours.

**Table 3. 15 Time spent on preparation (Unit: hour)**

Phase	Financial Year	N	Mean	SD	Median	Min	Max
<b>Preparation</b>	2012-2013	155	4.69	2.14	4	0.5	10.5
	2013-2014	123	3.76	2.21	3.25	0	10.75
	2014-2015	62	3.77	2.47	3.63	0.5	8
	2015-2016	93	5.27	2.31	5.25	0.75	10.5
<b>Mediation</b>	2012-2013	153	6.88	5.17	5	0	20.5
	2013-2014	124	5.26	3.96	4.25	0	19.5
	2014-2015	62	5.52	5.17	4.25	0	19.75
	2015-2016	93	7.34	5.00	6.75	0	16.5
<b>Total</b>	2012-2013	155	11.48	6.90	9	2	30.25
	2013-2014	123	8.95	5.34	7.5	0.25	24
	2014-2015	62	9.29	7.23	8.5	0.5	26.5
	2015-2016	93	12.61	6.69	12	2.5	25.5

**3.7 Fee Collected (Table 3.16 to Table 3.17)**

In the year 2015-2016, the average fee collected in preparation phase and mediation phase were \$142.16 and \$312.18, respectively. The total fee collected in both phases was \$454.33. Fees collected remained relatively stable during four financial years, except for the year 2013-2014.

**Table 3. 16 Fees Collected (by year)**

	2012-2013			2013-2014			2014-2015			2015-2016		
	N	Mean	SD	N	Mean	SD	N	Mean	SD	N	Mean	SD
<b>Preparation</b>	137	189.54	180.84	116	87.53	96.74	62	129.19	241.74	93	142.16	192.64
<b>Mediation</b>	135	290.57	535.23	116	129.31	394.24	62	390.56	863.77	93	312.18	710.42
<b>Total</b>	139	469.02	636.64	124	202.85	410.55	62	519.76	1007.90	93	454.33	831.66

**Table 3. 17 Fee Collected (by phase)**

	Financial Year	N	Mean	SD	Median	Min	Max
<b>Preparation</b>	2012-2013	137	189.54	180.84	200	0	1200
	2013-2014	116	87.53	96.74	75	0	362.5
	2014-2015	62	129.19	241.74	0	0	1000
	2015-2016	93	142.16	192.64	100	0	1140
<b>Mediation</b>	2012-2013	135	290.57	535.23	75	0	3600
	2013-2014	116	129.31	394.24	0	0	3150
	2014-2015	62	390.56	863.77	0	0	4500
	2015-2016	93	312.18	710.42	62.5	0	5350

### **3.8 Summary**

In sum, the analysis on the service records showed that most of the users had a monthly income below \$10,000; yet the male parties generally had a higher level of monthly income and assets. Female users free of charge was twice than the male users. The success rate of achieving full settlement increased from 2012 to 2015, while the rate of achieving no agreement decreased sharply from 43.67% to 23.91% accordingly. The average time spent on a case ranged from 8.95 to 12.61 hours. The fees collected per case was \$454.33 on average.

## **CHAPTER 4: RESEARCH METHODOLOGY**

### **4.1 Research Questions**

The overarching purposes of the research study are twofold: 1) to evaluate the workability and effectiveness of family mediation services in the cultural context of Hong Kong and; and 2) to evaluate the cost-benefit and the outcomes of the FC's Pilot Scheme. Appendix II summarizes the research objectives, indicators and data collection methods of the study.

This research study was essentially be aimed at providing answers to the following questions.

- 4.1.1 Do family mediation services keep down financial, psychological, and social costs?
- 4.1.2 Is family mediation an effective and efficient method for the settlement of family disputes between divorcing couples?
- 4.1.3 What are the factors affecting using or not using family mediation services and the respective outcomes?
- 4.1.4 How satisfied are family mediation service users? What are the differences in terms of service profiles and mediation outcomes between FC sponsored cases and non-sponsored cases?

### **4.2 Objectives**

Based on these research questions, our study had the following objectives:

- 4.2.1 To identify and compare the profiles of service users (FC sponsored cases and non-sponsored cases) in terms of their backgrounds and expectation of outcomes;
- 4.2.2 To compare the outcomes of using and not using family mediation services;
- 4.2.3 To examine the available resources and cost incurred;
- 4.2.4 To explore the issues of concern throughout the entire mediation process;
- 4.2.5 To probe into the factors affecting using or not using family mediation services and the respective outcomes thereof;
- 4.2.6 To gauge the outcomes of the mediation in terms of the agreement and partial agreement rates achieved;
- 4.2.7 To delineate how satisfied the users of the service are with the mediation process and with the outcomes of mediation.

### **4.3 Methods**

Considering the complexities of the systems embedded in family mediation services and the research objectives, a mixed-methods design was used in this study to provide, from multiple stakeholders, a comprehensive account and analysis of the outcomes of the family mediation services in Hong Kong. Hence, the data were collected from different sources, including:

- 4.3.1 Interviews with service users (FC sponsored cases and non-sponsored cases);
- 4.3.2 Interviews with children of service users (FC sponsored cases and non-sponsored cases);
- 4.3.3 Interviews with non-service users;

- 4.3.4 Interviews with family mediation supervisors and family mediators (NGOs and private practitioners);
- 4.3.5 Interviews with stakeholders including experts, service providers (e.g., the FMCO) and referrers (e.g., social worker; family lawyer);
- 4.3.6 A users' satisfaction survey for FC sponsored cases and non-sponsored cases;

#### **4.4 Sampling and Sampling Criteria**

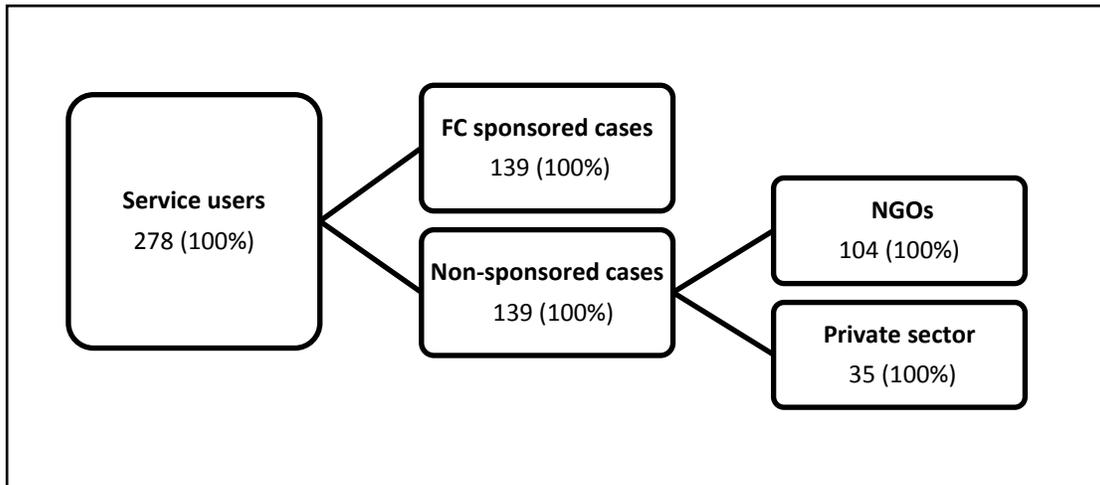
##### **4.4.1 Survey**

FC sponsored cases and non-sponsored cases were identified for a users' satisfaction survey. Given that a full list of family mediation service users from the Family Court Registry was not accessible due to concern about confidentiality, purposive sampling using a non-probability sampling method was employed in the survey. This method is commonly used in social work research particularly when a list of informants is unavailable<sup>80</sup>. The selection of respondents is made on the basis of our judgment and the purposes of the study. Diagram 4.1 summarizes the respondents and the sample size of FC sponsored cases and non-sponsored cases.

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<sup>80</sup> Rubin, A. & Babbie, E. (2014). *Research methods for social work (8th ed.)*. U.S.A.: Brooks / Cole.

**Diagram 4. 1 Respondents and Sample Size for Survey (from August 2014 to January 2016)**



Cases, either FC sponsored or non-sponsored cases, that were completed during the second phase of the sponsorship of the FC’s Pilot Scheme (i.e., 1<sup>st</sup> August 2014 to 31<sup>st</sup> January 2016) were selected for this study. This phase was set to minimize any bias from the respondents occurring with the passage of time.

Based on the statistics provided by the FC, the total number of cases completed from 1<sup>st</sup> August 2014 to 30<sup>th</sup> April 2015 (9 months) was 54. We assumed that the same number of cases was completed from 1<sup>st</sup> May 2015 to 31<sup>st</sup> January 2016 (9 months). The total number of cases completed in these 18 months was around 108, i.e., involving 216 service users. A standard survey with a confidence level of 95% and a margin error of 5% was used to set the sample<sup>81</sup>. The needed sample size for the service users was 139.

With regard to non-sponsored cases, we also selected cases in which family mediation services were completed from 1<sup>st</sup> August 2014 to 31<sup>st</sup> January 2016, a period

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<sup>81</sup> Cohen, J. (1988). *Statistical power analysis for the behavioral sciences* (2nd Ed.). Hillsdale, NJ: Lawrence Erlbaum Associates.

comparable to the FC sponsored cases. According to the statistics of the Judiciary<sup>82</sup>, 145 family mediation cases were completed in 2014. We estimated the total number of completed cases from 1st August 2014 to 31<sup>st</sup> January 2016 to be around 216 cases, based on the monthly workload. We assumed that 108 cases were FC sponsored as estimated above and the rest of the cases (i.e., 108 cases / 216 service users) were regarded as non-sponsored cases, either funded by other funding bodies such as the LAD, the Jockey Club and the Community Chest, or were private cases. Again, a standard survey with a confidence level of 95% and a margin error of 5% was adopted to set the sample size, which were 139.

As defined, non-sponsored cases refer to cases either sponsored by other funding bodies (e.g., the LAD, the Jockey Club, the Community Chest), or those that were self-financed. Whereas the former group was usually handled by the social workers in the NGOs, the latter one was identified from the caseloads of the private practitioners with legal, educational or counseling backgrounds. As mentioned previously, on the list of members of the panel of the HKMAAL, there were 200 family mediation supervisors and family mediators registered in the association by October 2015. Among them, 104 had a social work background, 78 were legal professionals, and 18 were from other professional backgrounds such as professor, nursing, and psychology<sup>83</sup>. As informed by the experts on family mediation, social workers from the NGOs handled the majority of the non-sponsored cases and the ratio of caseload distribution between the NGOs and the private

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<sup>82</sup> Hong Kong Mediation Accreditation Association Limited.  
[http://www.hkmaal.org.hk/en/HowToBecomeAMediator\\_F.php](http://www.hkmaal.org.hk/en/HowToBecomeAMediator_F.php)

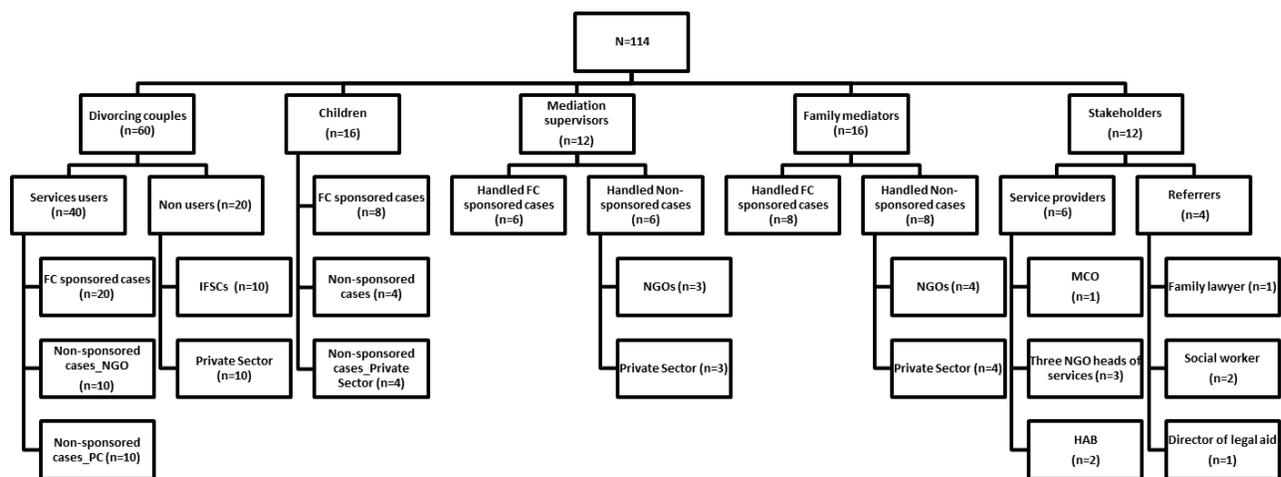
<sup>83</sup> HKMALL (2014). *Panel on administration of justice and legal services: Progress report from HKMAAL for the meeting on 22 July 2014*. Retrieved from <http://www.legco.gov.hk/yr13-14/english/panels/ajls/papers/aj0722cb4-939-2-e.pdf>.

sector (e.g., legal firms, educational institutions) was approximated to 4:1. Therefore, we recruited 104 service users from NGOs and 35 cases from other sectors such as legal firms, and educational institutions.

#### 4.4.2 Interview

Purposive sampling method is advantageous to provide for relatively equal numbers of different elements or people to enable an exploration and description of the conditions and meanings occurring within each of the study conditions.<sup>84</sup> A wide range of stakeholders including divorcing couples (service users and non-service users), service users' children, family mediation supervisors, family mediators, experts on family mediation, service providers and referrers were recruited to provide multiple perspectives for our study. Diagram 4.2 summarized the different categories of informants and the respective sample size.

**Diagram 4. 2 Informants and Sample Size for Interviews**



<sup>84</sup> Patton, M.Q. (1990). *Qualitative evaluation and research methods* (2<sup>nd</sup> Ed.). Newbury Park, CA: Sage.

It is noteworthy to point out that the sample size here was tentative only, given that qualitative studies put more emphasis on depth than on breadth<sup>85</sup>. New interviewees are sought out until theoretical saturation is reached, which means the sample size is enough if “no additional data collection is needed, no new code is developed, and themes and subthemes have been fully fleshed out<sup>86</sup>. The number of subjects required usually becomes obvious as the study progress, therefore the sample size was subject to change.

Both service users (FC sponsored cases and non-sponsored cases) and non-service users were recruited for the study. The selection criteria for service users / non-service users included: 1) divorcing couples involved in a child related dispute; 2) being mentally stable; 3) mediation service and /or divorce proceedings were completed within the period from 1<sup>st</sup> August 2014 to 31<sup>st</sup> January 2016. The service users were identified from the respondents of the survey. Non-service users were recruited from divorce cases handled by either Integrated Family Service Centers (IFSCs) or legal professions, the two major sectors that provided services for divorcing couples. Twenty in-depth interviews would be conducted with service users of FC sponsored cases and non-sponsored cases respectively. Twenty in-depth interviews, composed of an equal number of informants identified from IFSCs and legal firms, would be conducted with non-service users. The sample sizes for service users and non-service users were set at 40 and 20 respectively.

Children of divorcing couples were recruited to probe further into the children’s subjective experiences and perceptions. The selection criteria for children were: 1) their

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<sup>85</sup> Padgett, D. K. (2008). Data analysis and Interpretation. In D. K. Padgett. *Qualitative methods in social work research (2nd ed.)* (pp. 131- 198). U.K.: Sage Publications Ltd.

<sup>86</sup> Padgett, D. K. (2008). Data analysis and Interpretation. In D. K. Padgett. *Qualitative methods in social work research (2nd ed.)* (pp. 171). U.K.: Sage Publications Ltd.

parents were involved in the study; 2) the children were aged 6 or above; 3) were mentally stable. The children surveyed were only those of parents who have already been informants in the interviews, and were referred by their parents. Eight in-depth interviews would be conducted with children whose parents were service users in FC sponsored cases and non-sponsored cases respectively. The sample size for children was 16.

Family mediation supervisors and family mediators were also recruited in this study. Family mediation supervisors / family mediators who met the following criteria were recruited: 1) being a currently registered family mediation supervisor / family mediator; 2) have been providing supervision / family mediation services within the past five years. As of 31<sup>st</sup> October 2015, the membership list of the HKMAAL showed that there were 46 family mediation supervisors (who were also family mediators) and 155 family mediators in Hong Kong. A total of 12 family mediation supervisors and 16 family mediators composed of those who handled FC sponsored cases (i.e. 6 family mediation supervisors and 8 family mediators) and non-sponsored cases (i.e., 6 family mediation supervisors and 8 family mediators) were recruited. Whereas family mediation supervisors / family mediators that handled FC sponsored cases were all social workers from the three NGOs, those who handled non-sponsored cases were mostly social workers or legal professionals. An equal number of two professions were recruited through NGOs and legal firms.

Agency stakeholders including service providers (e.g., the FMCO), the service heads of NGOs, the FC and service referrers (e.g., family lawyers, social workers) were recruited to allow more key informants and maximum variation. Ten individual in-depth

interviews including both service providers and referrers would be conducted with these agency stakeholders.

Based on the above sampling criteria, the proposed interviewees of the study included family mediator / family mediation supervisors who were working in NGOs or in private sector, informants of various government departments and informants of the associations in relations to family mediation. Apart from it, a list of NGOs which rendered family services was included in the proposed interviewee list because social workers of these NGOs were working closely with divorcing couples. The proposed interviewee list was largely covered the key stakeholders who were able to provide a rich and an in-depth account of family mediation services in Hong Kong.

#### **4.5 Site Selection**

Sites were selected based on the criteria of 1) availability of informants with respective selection criteria; 2) accessibility.

There were three NGO sites that were able to identify the informants of FC sponsored cases and children, namely the HKFWS, the HKCMAC and the YMMSS. Non-sponsored cases were identified from these three agencies as well as other NGOs (i.e., the Caritas, the ISS, the Shatin Alliance Community Service Center (SACSC), the HKSKHWC and the HKCS) and private sectors. Given the difficulty of identifying private practitioners as they were working in different settings, we approached the affiliated organizations / associations of family mediation supervisors and family mediators such as the HKMAAL, the HKIAC, the LSHK, the HKBA, the HKMC and the Conflict Resolution center (CRC). Non-service users were identified through sites that

provided services for divorcing couples including the IFSCs, private practitioners in counseling services (e.g., The Center for Restoration of Human Relationships (CRHR), the Evangelical Lutheran Church of Hong Kong (ELCHK) etc. and law firms.

With regard to the recruitment of family mediation supervisors and family mediators, they were recruited from the three NGOs with FC sponsored cases, and from NGOs and private practitioners with non-sponsored cases. Private practitioners were identified through their affiliated organizations / associations such as the HKMAAL the HKIAC, the LSHK, the HKBA, and the HKMC. Stakeholders were identified from the FMCO, the LAD, three NGOs with FC sponsored cases, NGOs with non-sponsored cases, the FC, the IFSCs and legal firms.

An entry letter was prepared to gain access to the selected sites. The letter stated clearly the purposes of the study, the involvement, the responsibilities, and the rights of informants, and methods for contacting the researcher. Measures to protect the confidentiality of the data collected from the informants were emphasized too.

#### **4.6 Measurement Instruments**

A questionnaire (Appendix III) and interview guidelines (Appendix IV – Appendix IX) devised by the research team and validated by an expert panel <sup>87</sup> were administered to collect information from service users regarding their degree of satisfaction with the mediation process and outcome. The expert panel comprised 5 members, including a clinical psychologist, a counselor, a solicitor and two scholars. All of them met the criteria of 1) having extensive research experience in conducting family or divorce studies;

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<sup>87</sup> Reber, A.S. (1995). *Penguin dictionary of psychology*. London: Penguin books.

2) having substantial cultural knowledge; and 3) were expert in understanding the literacy level of the respondents. They were responsible for examining: 1) the relevance of test items; 2) the representativeness of the items with respect to a particular content domain, i.e. whether certain aspects were over-represented or under-represented, and whether or not there were any missing areas; and 3) its cultural relevance, i.e. whether the item was both relevant to the content and to the culture. Panel members received the scales and review guidelines. They were asked to go through the items according to the guidelines, paying particular attention to the relevance of each item to the construct, the overall cohesiveness of the test items, cultural relevance and the balance of content. Moreover, panel members were invited to elicit additional thoughts about the content validity of the scale. Final decisions were based on the social consensual method (consensual validity), in which agreement within the group provides evidence for the validity of the scale<sup>88</sup>. The revised scales were finalized by the members of the consulting team in October 2015.

#### **4.7 Ethical issues**

Ethical approval from the Institutional Review Board of the university was sought before conducting this research. The participants were provided with information about the research project and invited to take part in the study on a voluntary basis. They were allowed to withdraw from the study at any time without any consequences. Consent forms were disseminated to the participants. Anonymity could hardly be ensured during the qualitative interviews. Instead, confidentiality was carefully preserved throughout the

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<sup>88</sup> Reber, A.S. (1995). *Penguin dictionary of psychology*. London: Penguin books.

whole research process. The two primary principles, informed consent and confidentiality, are elaborated as follows.

#### ***4.7.1 Voluntary Participation and Informed Consent***

All the participants joined the study voluntarily. They were told that they had full freedom to withdraw from the study if and when they wanted to. It was particularly true for the study which involved children as informants. In addition, all participants were asked to give their written consent to participate in the research project. Children aged 6 to 11 were able to read simple wording<sup>89</sup> and so a simplified version of the consent form was prepared as well. Consent forms were provided to participants, along with a clear explanation of the purposes of the research and the rights of participants. They were assured of: 1) the commitment on behalf of the researcher to preserve anonymity / confidentiality; 2) the right to consent to be involved, and the right to leave the research at any time during the research process; and 3) the right to decline involvement in specific parts of the research project (such as declining to answer certain questions.

#### ***4.7.2 Confidentiality***

The participant's right to confidentiality was preserved throughout the duration and dissemination of the project. After data collection, the names of the participants were coded into numbers to ensure that no one else could match the questionnaires with the participants. All original data, interview materials and transcripts, consent forms, and other documents that contained references to personal details were stored in secure

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<sup>89</sup> Rubin, A. & Babbie, E. (2014). *Research methods for social work (8th ed.)*. U.S.A.: Brooks / Cole.

conditions, accessed only by the researchers. The provision of consent, further confirmed in the continued discussions with participants, assumed that data could be used for the research project and for the completion of this program.

## **4.8 Data collection methods and timeline**

### **4.8.1 Survey**

#### ***4.8.1.1 FC Sponsored Cases***

The first round of data collection of the survey was begun in November 2015 and ended in March 2016 and the second round of data collection was held from April to May 2016. An enquiry letter, a questionnaire and a reply slip (Appendix X) for participation in an in-depth interview were sent to each NGO that handled FC sponsored cases, including the HKFWS, the HKCMAC and the YMMSS. These NGOs were responsible for mailing the questionnaire and the reply slip to each service user who had completed mediation at some time from August 2014 to October 2015. The respondents returned the sealed questionnaire and the reply slip to the respective agencies. Our research assistant collected them in person at the end of each month.

Regarding the cases completed in the period from November 2015 to January 2016, family mediators / family mediation supervisors gave the questionnaire and the reply slip to service users directly, probably at the last mediation session. The respondents returned the sealed questionnaire and the reply slip to the family mediator / the family mediation supervisors right away. Likewise, our research assistant collected them in person at the end of each month.

#### ***4.8.1.2 Non-sponsored Cases***

Invitation letters were sent to (1) the associations related to family mediation including the HKMAAL, the HKIAC, the LSHK, the HKBA, the HKMC and the CRC; (2) 8 NGOs rendering family mediation services, including the HKFWS, the HKCMAC, the YMMSS, the Caritas, the ISS, the SACSC, the HKSKHWC and the HKCS and (3) all family mediators / family mediation supervisors registered in the HKMAAL. When non-sponsored cases were identified, the questionnaire and the reply slip were sent to the informants through the referrers. The informants returned the sealed questionnaire and the reply slip to the senders afterwards. Our research assistant collected the questionnaires in person at the end of each month.

#### **4.8.2 Interview**

Based on the proposed interviewees list, we had identified different categories of informants through the following methods.

##### ***4.8.2.1 Service users (FC sponsored cases and Non-sponsored cases)***

Service users (both FC sponsored cases and non-sponsored cases) were identified from the respondents of the survey. The informants of the survey gave consent to participate in an in-depth interview through the reply slip. Our research assistant contacted the participants directly and arranged an interview within 1 to 2 weeks of the contact. An information sheet on the research study, a consent form (Appendix XII) and an interview guide was given to the informants before the interview.

#### **4.8.2.2 Children**

Children were identified through the service users (i.e. their parents) who were involved in the in-depth interviews. A consent form (Appendix XIII) was given to the service users before an interview with their children was conducted. After the parent's consent was sought, our research assistant would send an information sheet on the study, an interview guide and a consent form for children (Appendix XIV) before the interview. The interviewers explained the purpose of the study, and the rights and the responsibilities of being an informant to the children once again before an interview was conducted.

#### **4.8.2.3 Non-service users**

Invitation letters were sent to barristers and solicitors who handled family cases, NGOs with IFSCs (including the HKCS, the Hong Kong Christian Family Service (HKCFS), the Hong Kong Children and Youth Services (HKCYS), the St. James' Settlement (St. JS), the Tung Wah group of Hospitals (TWGH), the HKSKHWC and the Neighborhood Advice-Action Council (NAAC)) and private organizations with family services (including the CRHR and the ELCHK). The non-service users, who agreed to join the study, were referred by the agencies and contacted by our research assistant directly. An interview was arranged within 1 to 2 weeks after the initial contact. An information sheet on the study, an interview guide and a consent form (Appendix XV) were given to the informants before the interview.

#### **4.8.2.4 Family Mediation Supervisors and Family Mediators**

Family mediation supervisors and family mediators were identified from (1) 5 associations in relation to family mediation including the HKMAAL, the HKIAC, the LSHK, the HKBA, the HKMC and the CRC; (2) 8 NGOs that provided the service

including the HKFWS, the HKCMAC, the YMMSS, the Caritas, the ISS, the SACSC, the HKSKHWC and the HKCS; (3) all family mediators / family mediation supervisors registered with the HKMAAL; and (4) the network of consulting teams. Invitation letters were sent to them which invited them to refer family mediation supervisors and family mediators to the study. When we received the referrals, our research assistant contacted the informants directly. An interview was arranged within 1 to 2 weeks of the contact. An information sheet on the study, an interview guide and a consent form (Appendix XVI) were sent to the informants before the interview.

#### ***4.8.2.5 Stakeholders***

Stakeholders including two experts on family mediation, service providers and referrers were invited to be informants of the study. Invitation letters were sent to service providers including the Mediation Coordinator's Office, the HAB, the head of the 3 NGOs with FC sponsored cases, and service referrers including legal professionals, social workers and the LAD. Interviews were arranged for the stakeholders within 1 to 2 weeks after their consent had been sought. An information sheet on the study, an interview guide and a consent form (Appendix XVII) were given to the informants before the interview.

A second round of invitations was conducted from March to May 2016 to boost the numbers of the interview.

#### **4.9. Quality of the Study**

The quality of the research study was ensured by the high reliability and validity of the measurement tools used as discussed in section 4.6. Apart from that, as the participants joined the study voluntarily, there might be some concern regarding the

possibility of selection bias in the study, i.e. the respondents tended to have positive experiences with the service. In view of this, the research team has employed various strategies to reduce the effect of any selection bias. First, the respondents were recruited from multiple sources (i.e., from both the private and public sectors and from different service units), and they had various profiles (e.g., children with ages ranging from 6 to 18; the mediators had varying years of experience and came from different professional backgrounds). Second, in order to achieve a comprehensive picture of the effectiveness of the service, the findings included the perspectives of different informants (e.g., divorcing couples, children, family mediators, and stakeholders) who were involved in the process of the provision of the service. Third, by combining the methods of the survey and the interview, we could not only benefit from the advantages of a survey such as having a large population coverage and a high level of generalizability etc., but could also offset the weaknesses of the survey such as superficiality, missing social context, inflexibility, artificially and questionable validity<sup>90</sup> through the use of interviews. This mixed-methods design could elucidate the findings and present a better-informed understanding of what the true picture is<sup>91</sup>.

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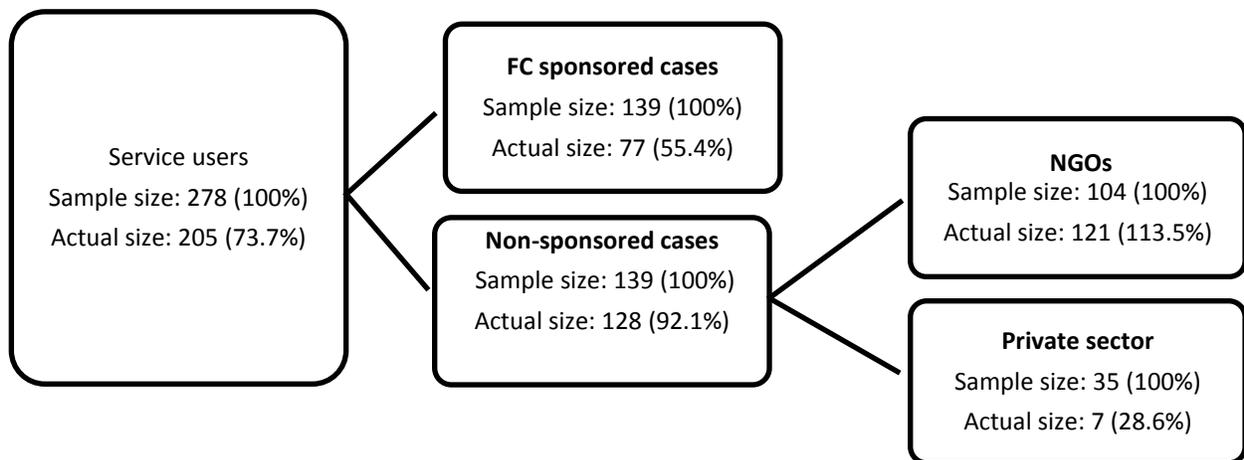
<sup>90</sup> Rubin, A. & Babbie, E. (2014). *Research methods for social work (8th ed.)*. U.S.A.: Brooks / Cole

<sup>91</sup> Ditto

## CHAPTER 5: THE USERS' SATISFACTION SURVEY

A total of 205 questionnaires were collected for the study with an overall response rate of 73.7% (Diagram 5.1). Table 5.1 and Table 5.2 show that seventy-seven (37.6%) questionnaires were FC-sponsored cases and 128 (62.4%) questionnaires were non-FC-sponsored cases. Of the latter group, 121 (92.7%) were collected from NGOs and 7 were referred by private sector. NGOs included the HKFWS, the HKCMAC, the YMMSS. Seven cases were referred by private practitioners, such as solicitors and clinical psychologists.

**Diagram 5. 1 Total Number of Questionnaire Collected**



**Table 5. 1 Sample Size and Composition (by agencies)**

		N	%	Valid %
<b>Social service agencies</b>	<b>HKCMAC</b>	121	59.0	59.6
	<b>HKFWS</b>	69	33.7	34.0
	<b>YMMSS</b>	3	1.5	1.5
	<b>Other social welfare agencies</b>	3	1.5	1.5
<b>Private practitioners</b>	<b>Law firms</b>	5	2.4	2.5
	<b>Others</b>	2	1.0	1.0
<b>Not indicated</b>		2	1.0	
<b>Total</b>		<b>205</b>	<b>100.0</b>	

**Table 5. 2 Sample Size and Composition (by subvention schemes)**

<b>Data source</b>	<b>N</b>
<b>Non-FC-sponsored cases</b>	128 (62.4%)
<b>NGOs</b>	121
<b>Private practitioners</b>	7
<b>FC-sponsored cases</b>	77 (37.6%)
<b>Total</b>	<b>205</b>

Given that in social work research, 50% of the response rate is considered adequate for analysis and reporting, 60% is a good response rate and 70% is a very good response rate<sup>92</sup>, we have achieved a very good overall response rate in the survey. The relatively low response rate of non-sponsored cases referred by private sector could be explained by the fact that the main referrer was legal professionals who concerned very much on the privacy issue of their clients.

### **5.1 Demographic Profile (Table 5.3)**

Among the 205 respondents, 54.4% were female. The majority of them were aged 31-50 (74.5%). Nearly three fourths (73.0%) had an educational level higher than middle school. More than two thirds of them (63.7%) were working on a full-time basis. About one third (32.2%) had a monthly income of \$10,001 to \$20,000. Two thirds (65.8%) were born in Hong Kong. Among those who were not born in Hong Kong, their length of residence ranged from 1 year to 71 years with an average of 19.46 years. Half of the respondents (53.2%) had only one child. Regarding the children's age range, 30.5% were below 5 years old, 29.1% were aged 6-10, 24.1% were aged 11-15, 19.2% were aged 16-20, and 15.8% were aged above 21.

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<sup>92</sup> Nulty, D. D. (2008). The adequacy of response rates to online and paper surveys: what can be done? *Assessment & Evaluation in Higher Education*, 33(3), 301-314

**Table 5. 3 Descriptive Statistics of Sample Characteristics**

<b>Variables</b>	<b>%</b>	<b>N (valid/missing)<sup>93</sup></b>	
<b>Gender</b>		204/1	
Male	45.6		
Female	54.4		
<b>Age</b>		204/1	
<30	5.9		
31-40	35.3		
41-50	39.2		
>50	19.6		
<b>Education</b>		204/1	
None	.5		
Primary school	3.4		
Junior high school	23.0		
Senior high school	39.2		
University of above	33.8		
<b>Occupation</b>		204/1	
Full-time housework	16.7		
Full-time work	63.7		
Part-time work	11.3		
Unemployed	6.4		
Retired	2.0		
<b>Monthly income (per person)</b>		199/6	
<\$10,000	34.2		
\$10,001-20,000	32.2		
\$20,001-30,000	16.1		
\$30,001-40,000	6.0		
\$40,001-50,000	5.0		
\$50,001-60,000	3.0		
>\$60,000	3.5		
<b>Birthplace</b>		202/3	
HK	65.8		
Other place	34.2		
Length of residence in HK	NA	63/6	M = 19.46 (SD = 13.99)
<b>Number of children</b>		203/2	
None	8.4		
1	53.2		
2	30.5		
3	6.9		
>4	1.0		
<b>Proportion of child(ren) in the following age range</b>		203/2	
0-5	30.5		
6-10	29.1		
11-15	24.1		
16-20	19.2		
>21	15.8		
NA	7.4		

<sup>93</sup> “Missing” refers to cases which did not indicate their responses on certain items.

## 5.2 Experience of Using Mediation Service

### 5.2.1 Source of Information (Table 5.4)

Six sources were listed, including former spouses, social workers, lawyers, family or friends, family court, and promotional materials. Respondents could make multiple choices. As a result, family court turned to be the most common source (n=67). Social workers were the second (n=47), then former spouses (n=40), promotional materials (n=32) and lawyers (n=30). Family or friends were the least common source (n=11).

**Table 5. 4 Source of Information**

Information source	N	%
Family court	67	32.7
Social workers	47	22.9
Former spouse	40	19.5
Promotional materials (e.g.: leaflet, pamphlet, website)	32	15.6
Lawyers	30	14.6
Family or relatives	11	5.4
Others	7	3.4

### 5.2.2 Gender of the Mediators (Table 5.5)

The majority of the mediators were female (83.7%).

**Table 5. 5 Gender of the Mediators**

Gender	N	%
Male	33	16.3
Female	170	83.7
<b>Total</b>	<b>205</b>	<b>100.0</b>

### 5.2.3 Background of the Mediators (Table 5.6)

The professional backgrounds of the mediators were classified into six categories, including lawyers, social workers, counselors, psychologists, professors, and others (mostly doctors). Respondents could make multiple choices. Social workers accounted for the largest number (n=159).

**Table 5. 6 Background of the Mediators**

Background	N	%
Social workers	159	77.6
Counselors	21	10.2
Lawyers	16	7.8
Psychologists	2	1.0
Professors	0	0.0
Others	3	1.5
Not clear	22	10.7

**5.2.4 Agency of the Mediators (Table 5.7)**

The majority of the respondents (91.5%) came from the three agencies under the FC Pilot Scheme. Sixteen respondents were from other social welfare agencies or law firms. Four did not respond to this item.

**Table 5. 7 Agency of the Mediators**

Agency	N	%	
Social service agencies	Hong Kong Catholic Marriage Advisory Council (HKCMAC)	114	56.7
	Hong Kong Family Welfare Society (HKFWS)	67	33.3
	Yang Memorial Methodist Social Service (YMMSS)	3	1.5
	Other social welfare agencies	7	3.5
Law firms	9	4.5	
Others	1	.5	
<b>Total</b>	<b>201</b>	<b>100.0</b>	

**5.2.5 Registration Fees (Table 5.8)**

Half of the respondents (52.5%) indicated that they had to pay a registration fee. Among those who put down their registration fees (N=82), most (92.7%) paid \$50 or \$100; only one respondent suggested s/he paid as much as \$3000.

**Table 5. 8 Registration Fees**

<b>Registration fee</b>	<b>N</b>	<b>%</b>
<b>Paid</b>	107	
<b>Amount</b>		100.0
<b>\$50</b>	8	9.8
<b>\$100</b>	68	82.9
<b>\$150</b>	2	2.4
<b>\$200</b>	2	2.4
<b>\$600</b>	1	1.2
<b>\$3000</b>	1	1.2

**5.2.6 Mediation Fees (Table 5.9)**

Nearly half (43.6%) of the respondents used the service for free. Less than ten percent (5.9%) paid the service for \$501-\$600.

**Table 5. 9 Mediation Fees**

	<b><u>N</u></b>	<b><u>%</u></b>
<b>\$ 0</b>	89	43.6
<b>\$100 or below</b>	51	25.0
<b>\$101-\$200</b>	12	5.9
<b>\$201-\$300</b>	9	4.4
<b>\$301-\$400</b>	9	4.4
<b>\$401-\$500</b>	9	4.4
<b>\$501-\$600</b>	12	5.9
<b>\$601 or above</b>	8	3.9
<b>Not clear</b>	5	2.5
<b>Total</b>	<b><u>204</u></b>	<b><u>100.0</u></b>

**5.2.7 Sponsorship (Table 5.10)**

More than three fourths (74.6%) of the respondents reported receiving sponsorship. Among them, nearly half (41.3%) were sponsored by the Family Council (FC), HAB.

**Table 5. 10 Sponsorship**

<b>Sponsorship</b>	<b>N</b>	<b>%</b>
<b>Yes</b>	153	74.6
<b>Agency</b>	61	40.7
<b>Family Council (FC), HAB</b>	62	41.3
<b>Legal Aid</b>	13	8.7
<b>Mediation supervision scheme</b>	6	4.0
<b>Not clear</b>	8	5.3
<b>No</b>	43	21.0
<b>Not clear</b>	9	4.4
<b>Total</b>	<b><u>205</u></b>	<b><u>100.0</u></b>

**5.2.8 Duration of the Mediation (Table 5.11)**

Nearly half (51.7%) reported having 1-2 individual sessions. If there were joint sessions, there were generally 3-4 (42.9%).

**Table 5. 11 Duration**

<b>Number of sessions</b>	<b>N</b>	<b>%</b>
<b>Individual session</b>	203	100.0
<b>None</b>	5	2.5
<b>1-2</b>	105	51.7
<b>3-4</b>	62	30.5
<b>5-6</b>	19	9.4
<b>7 or above</b>	9	4.4
<b>Not clear</b>	3	1.5
<b>Joint sessions</b>	205	100.0
<b>None</b>	5	2.4
<b>1-2</b>	64	31.2
<b>3-4</b>	88	42.9
<b>5-6</b>	29	14.1
<b>7 or above</b>	18	8.8
<b>Not clear</b>	1	.6

**5.2.9 Outcome of the Mediation (Table 5.12 to Table 5.15)**

Nearly four fifths (79.5%) reported achieving full agreement, one fifth (18.5%) reported a partial agreement was reached, while the rest (2.0%) reported no agreement reached.

**Table 5. 12 Agreement Reached**

Agreement	N	%
<b>Full</b>	163	79.5
<b>Partial</b>	38	18.5
<b>No</b>	4	2.0
<b>Total</b>	<u>205</u>	<u>100.0</u>

We further analyzed in which aspects full, partial, or no agreement had been reached. Respondents could make multiple choices. First, among the items fully agreed, childrearing and childcare arrangement accounted for the highest number (n=128), followed by living expenses for child(ren) (n=122) and properties (n=120).

**Table 5. 13 Full Agreement (N=163) (multiple choice question)**

Items	N	%
<b>Childrearing and childcare arrangement</b>	128	78.5
<b>Living expenses for child(ren)</b>	122	74.8
<b>Properties</b>	120	73.6
<b>Parent-child time</b>	114	69.9
<b>Living expenses for former spouse</b>	104	63.8
<b>Accommodation</b>	95	58.3
<b>Others</b>	5	3.1

Second, among respondents who considered partial agreement had been reached, living expenses for child(ren) accounted for the highest number (n=30), followed by childrearing and childcare arrangement (n=28) and parent-child time (n=25). On the other hand, accommodation accounted for the most disputed issue (n=13).

**Table 5. 14 Full or Partial Agreement (N=38) (multiple choice question)**

Items	Full or partial agreement		No agreement	
	N	%	N	%
<b>Living expenses for child(ren)</b>	30	78.9	4	11.8
<b>Childrearing and childcare arrangement</b>	28	73.7	4	11.8
<b>Parent-child time</b>	25	65.8	8	23.5
<b>Living expenses for former spouse</b>	17	44.7	5	14.7
<b>Accommodation</b>	10	26.3	11	32.4
<b>Properties</b>	16	42.1	13	38.2
<b>Others</b>	6	15.8	6	17.6

Third, among the respondents who considered no agreement (n=4) had been reached, accommodation was found to be the most disputed issue (n=2).

**Table 5. 15 No Agreement (N=4) (multiple choice question)**

Items	N	%
Accommodation	2	66.7
Childrearing and childcare arrangement	1	33.3
Parent-child time	1	33.3
Living expenses for child(ren)	1	33.3
Living expenses for former spouse	1	33.3
Properties	1	33.3
Others	2	66.7

In summary, agreements on child-related issues were easier to reach, while agreement on property-related issues such as accommodation were not.

### **5.3 Satisfaction Level: An Overview (Table 5.16 to Table 5.18)**

Satisfaction was measured by five dimensions, including (i) the outcome of child custody, (ii) the outcome of finance and properties, (iii) the process, (iv) services, and (v) overall satisfaction. The first two dimensions assessed respondents' level of satisfaction with the outcome of the mediation particularly in terms of the two primary concerns of most divorcing/ divorced couples. The level of satisfaction with the process evaluated to what extent the respondents were satisfied with their communication and negotiation throughout the mediation process. The level of satisfaction with the service measured how much respondents were satisfied with their mediator's knowledge, skills, and attitudes. Finally, overall satisfaction was used to assess how respondents rate the information, charges, duration, and coordination of the mediation service in general.

The overall internal consistency in terms of Cronbach's  $\alpha$  was used in the reliability test. The Cronbach's  $\alpha$  of the five scales ranged from .867 to .966. According to

Nunnally (1978)<sup>94</sup>, a Cronbach's  $\alpha$  above .70 is considered to be an acceptable reliability coefficient. Therefore, the scales used in the study are highly reliable.

**Table 5. 16 Internal Consistency of Scales**

Scales	Number of items	Cronbach's $\alpha$
<b>Outcome: child custody</b>	7	.966
<b>Outcome: finance &amp; properties</b>	6	.867
<b>Process</b>	7	.935
<b>Services</b>	8	.954
<b>Overall satisfaction</b>	8	.930

Descriptive analysis was conducted to yield an overall respondents' satisfaction level. The results indicated that: (1) Respondents had a high level of satisfaction with the outcome of child custody (Mean=4.98, SD=.79). Thirty-three respondents did not dispute this issue. (2) Level of satisfaction with the outcome of finance and properties was also high (Mean=4.65, SD=1.06). (3) Respondents had a high level of satisfaction with the mediation process (Mean=4.98, SD=.71). (4) Respondents had a high level of satisfaction with the service (Mean=5.31, SD=.63). (5) Rated overall, respondents had a high level of satisfaction (Mean=5.20, SD=.61). Lastly, the medians of these five dimensions range from 5.00-5.38, suggesting that most of the respondents rate the items as "moderately satisfactory" or "strongly satisfactory".

**Table 5. 17 Descriptive Statistics of Key Variables**

Variables	Range	N	Mean	Median	SD	Min	Max
<b>Outcome: child custody</b>	1-6	172	4.98	5.00	.79	1.71	6.00
<b>Outcome: finance &amp; properties</b>	1-6	196	4.65	5.00	1.06	1.00	6.00
<b>Process</b>	1-6	204	4.98	5.00	.71	1.00	6.00
<b>Services</b>	1-6	203	5.31	5.38	.63	3.50	6.00
<b>Overall satisfaction</b>	1-6	203	5.20	5.25	.61	3.63	6.00

<sup>94</sup> Nunnally, J. (1978). *Psychometric theory*. New York: McGraw-Hill.

To examine the differences between cases receiving sponsorship from Family Council and those not receiving, a series of t-tests were conducted between the two groups. With regard to child custody, there was no significant difference in the scores for FC-case (M=5.02, SD=.69) and non-FC-cases (M=4.95, SD=.85) conditions;  $t(170) = .555, p = .579$ . This results suggested that sponsoring scheme did not have a significant effect on the outcome of child custody. Similar results were found in other four domains.

**Table 5. 18 Tests of Differences between FC and Non-FC**

	User type	N	Mean (SD)	t
<b>Outcome: child custody</b>	FC	65	5.02 (.69)	.555
	Non-FC	107	4.95 (.85)	
<b>Outcome: finance &amp; properties</b>	FC	75	4.61 (1.06)	-.422
	Non-FC	121	4.67 (1.07)	
<b>Process</b>	FC	76	5.07 (.57)	1.313
	Non-FC	128	4.93 (.78)	
<b>Services</b>	FC	75	5.32 (.62)	.163
	Non-FC	128	5.31 (.64)	
<b>Overall satisfaction</b>	FC	75	5.20 (.53)	.032
	Non-FC	128	5.20 (.65)	

## 5.4 Satisfaction on Mediation Outcomes

### 5.4.1 Compliance of the Agreement (Table 5.19)

With regard to the compliance of the agreement, we asked respondents to rate on statements whether they trust the other party to comply with agreements on child custody (Question 19) and financial allotment (Question 25). As a result, the mean scores for each item were 4.83 and 4.87, respectively, indicating that respondents on average agree with the statements.

**Table 5. 19 Compliance of the Agreement on Child Custody and Financial Allotment**

Items	Range	Mean	Median	SD
<b>Q19</b>	1-6	4.83	5.00	.958
<b>Q25</b>	1-6	4.87	5.00	.978

### 5.4.2 Correlates of Satisfaction on Mediation Outcomes (Table 5.20 to Table 5.22)

To gauge the outcomes of FC’s Pilot Scheme, particularly in terms of assessing the agreement reached on the matter(s) being mediated and user’s satisfaction with mediation service as a whole, further analyses were conducted to examine the correlates of the satisfaction level on two *mediation outcomes* (i.e., child custody and finance & properties) and *overall satisfaction*. Socio-demographic variables included gender, age, educational level, monthly income, birthplace, and number of children. Service-related variables were mediation fees, whether or not receive any sponsorship<sup>95</sup>, number of individual sessions and joint sessions.

For child custody, it was not significantly correlated with the selected key variables; however, for Question 19 (“I think the other party will comply with the agreements”), it was significantly and negatively correlated with divorcing/ separating couples’ educational level, which means the lower their educational level is, the more confidence they will have regarding whether the other party will comply with the agreements.

**Table 5. 20 Bivariate Correlation: Child Custody and Key Variables**

		Child custody (sum)	Q14	Q15	Q16	Q17	Q18	Q19	Q20
Demographics	Gender	-.007	.015	-.031	.037	.062	.005	-.149	-.010
	Age	-.042	-.007	-.122	.027	-.128	-.017	.121	.018
	Education	-.077	-.107	.022	.056	.017	-.143	<b>-.183*</b>	-.139
	Income	.057	.103	.028	.126	-.058	.063	-.030	.088
	Birthplace	.026	.063	-.055	-.015	.073	.052	.012	-.002
	Number of children	.072	.008	.009	.099	.103	.012	.109	.014
Service-related	Mediation fee	.060	.053	.056	.063	.002	.070	-.017	.085
	Sponsorship	-.043	-.136	-.095	.087	-.122	.019	.039	.059
	Individual sessions	.013	.060	.028	.012	-.004	-.057	-.007	.031
	Joint sessions	.102	.136	.141	-.024	.029	.061	.078	.071

Notes. \*p<.05.

<sup>95</sup> For sponsorship, “yes” was coded as 1 while “no” was coded as 2.

For finance & properties, it was also not significantly correlated with the selected key variables. However, Question 21 (“Family mediation could help us reach an agreement on life expenditure arrangements”) was significantly but negatively associated with mediation fees, which means, respondents who paid higher mediation fees are more likely to be less satisfactory on this item. Moreover, Question 23 (“Family mediation could help us reach an agreement on properties arrangements.”) was significantly and positively correlated with number of joint sessions, which means the more the joint sessions, the more satisfactory the respondents will be on this item.

**Table 5. 21 Bivariate Correlation: Finance & Properties and Key Variables**

		<b>Finance &amp; properties (sum)</b>	<b>Q21</b>	<b>Q22</b>	<b>Q23</b>	<b>Q24</b>	<b>Q25</b>	<b>Q26</b>
<b>Demographics</b>	<b>Gender</b>	-.091	-.087	-.075	-.029	-.018	-.117	-.077
	<b>Age</b>	.117	.045	.072	.083	.072	.134	.131
	<b>Education</b>	-.052	-.064	-.102	-.033	.023	-.005	.010
	<b>Income</b>	.120	.069	.095	.100	.142	.048	.032
	<b>Birthplace</b>	-.093	-.068	.007	-.121	-.126	-.073	-.035
	<b>Number of children</b>	.052	.038	.087	.014	.014	.053	.000
<b>Service-related</b>	<b>Mediation fee</b>	-.061	<b>-.145*</b>	.011	-.011	-.020	.070	-.087
	<b>Sponsorship</b>	.018	-.030	.041	.059	.029	-.012	-.060
	<b>Individual sessions</b>	.023	.066	.033	-.012	.031	-.043	.008
	<b>Joint sessions</b>	.100	.092	.069	<b>.164*</b>	.024	.030	-.017

Notes. \*p<.05.

Lastly, for overall satisfaction, 1) Question 45 (“I am satisfied with the charges”) was negatively correlated with the number of children, which means respondents with less children were more likely to be satisfied with the charges. Negative associations with mediation fees and sponsorship indicated that respondents who paid less mediation fees, or got subvention were more likely to be satisfied with the charges. 2) Question 46 (“I am satisfied with the mediation duration”) was also negatively correlated

with mediation fee and sponsorship, suggesting that respondents who paid less mediation fees, or got subvention were more likely to be satisfied with the duration. 3) Question 47 (“I am satisfied with the coordination between mediation service and other services, such as litigation and counselling”) was negatively correlated with educational level, which means respondents having lower educational level were more likely to be satisfied with the service coordination. A negative association was also found with regard to sponsorship, suggesting that subvented cases were more likely to be satisfied with the service coordination.

**Table 5. 22 Bivariate Correlation: Overall Satisfaction and Key Variables**

		<b>Q42</b>	<b>Q43</b>	<b>Q44</b>	<b>Q45</b>	<b>Q46</b>	<b>Q47</b>	<b>Q48</b>	<b>Q49</b>
<b>Demographics</b>	<b>Gender</b>	.033	.006	.078	.064	.082	.088	-.049	-.004
	<b>Age</b>	.011	.062	.039	.026	.103	.075	.129	.105
	<b>Education</b>	-.040	-.046	-.071	-.031	-.028	<b>-.157*</b>	-.096	-.069
	<b>Income</b>	-.046	.001	-.041	-.114	-.047	-.075	.044	.030
	<b>Birthplace</b>	.018	.072	.104	.074	.080	.129	.063	.093
	<b>Number of children</b>	.012	.017	.054	<b>-.191**</b>	-.018	.090	.051	.018
<b>Service-related</b>	<b>Mediation fee</b>	-.072	-.058	-.084	<b>-.198**</b>	<b>-.172*</b>	-.108	-.029	-.022
	<b>Sponsorship</b>	-.090	-.105	-.055	<b>-.146*</b>	<b>-.165*</b>	<b>-.143*</b>	-.096	-.098
	<b>Individual sessions</b>	.107	.039	.023	.026	-.002	.047	.015	.058
	<b>Joint sessions</b>	.048	-.044	.076	-.050	-.068	-.010	.000	-.048

Notes. \*p<.05, \*\*p<.01.

### 5.5 Cross Tabulation Analysis on Satisfaction Level

Based on the results of the bivariate correlation analysis, cross tabulation analysis were conducted to provide more in-depth information on the identified significant relationship between key variables and outcome variables. Socio-demographic variables included gender, age, educational level, monthly income, birthplace, and number of children. Service-related variables were mediation fees, whether or not receive any sponsorship, number of individual sessions and joint sessions. The Chi-square statistics

was used as a primary statistic for testing the statistical significance of the cross-tabulation table.

### 5.5.1 Child Custody (Table 5.23)

The satisfaction level on Question 19 (“I think the other party will comply with the agreements”) varies with the educational level. Nearly three-quarters (72.3%) of the respondents chose “moderately agree” or “strongly agree”, suggesting a high level of satisfaction. But a closer look at the distribution by educational level, we found that none of the respondents under junior high school tend to disagree with this statement. However, the differences in education are not statistically significant.

**Table 5. 23 Cross-tab on Q19 and Education Level**

		<b>19. I think the other party will comply with the agreements.</b>						
		<b>Strongly disagree 1</b>	<b>Moderately disagree 2</b>	<b>Slightly disagree 3</b>	<b>Slightly agree 4</b>	<b>Moderately agree 5</b>	<b>Strongly agree 6</b>	<b>Row total</b>
<b>Education level</b>	<b>1. none</b>	0	0	0	0	0	1	1
		0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
	<b>2. primary school</b>	0	0	0	0	4	1	5
		0.0%	0.0%	0.0%	0.0%	80.0%	20.0%	100.0%
	<b>3. junior high school</b>	0	0	2	8	19	10	39
		0.0%	0.0%	5.1%	20.5%	48.7%	25.6%	100.0%
	<b>4. senior high school</b>	0	0	3	11	38	14	66
		0.0%	0.0%	4.5%	16.7%	57.6%	21.2%	100.0%
	<b>5. university or above</b>	0	4	4	15	23	13	59
		0.0%	6.8%	6.8%	25.4%	39.0%	22.0%	100.0%
	<b>Column total</b>	0	4	9	34	84	39	170
		0.0%	2.4%	5.3%	20.0%	49.4%	22.9%	100.0%

Chi-Square = 17.072, df = 16, p = .381 (ns)

Pearson's R = -.183, p < .05

### 5.5.2 Finance and Properties (Table 5.24- Table 5.25)

The satisfaction level on Question 21 (“Family mediation could help us reach an agreement on life expenditure arrangements”) varies with how much they paid for the service. None of the respondents who paid \$100-\$200 or over \$501 disagree with this statement, while a few respondents paid \$201-\$500 showed slightly disagree. However, this difference in mediation fees is also not statistically significant.

**Table 5. 24 Cross-tab on Q21 and Mediation Fees**

		21. Family mediation could help us reach an agreement on life expenditure arrangements.						
		Strongly disagree 1	Moderately disagree 2	Slightly disagree 3	Slightly agree 4	Moderately agree 5	Strongly agree 6	Row total
<b>Mediation fee</b>	<b>1. \$ 0</b>	1	1	1	6	43	23	75
		1.3%	1.3%	1.3%	8.0%	57.3%	30.7%	100.0%
	<b>2. &lt;\$100</b>	0	0	0	6	25	18	49
		0.0%	0.0%	0.0%	12.2%	51.0%	36.7%	100.0%
	<b>3. \$101-\$200</b>	0	0	0	1	6	3	10
		0.0%	0.0%	0.0%	10.0%	60.0%	30.0%	100.0%
	<b>4. \$201-\$300</b>	0	0	1	1	4	2	8
		0.0%	0.0%	12.5%	12.5%	50.0%	25.0%	100.0%
	<b>5. \$301-\$400</b>	0	0	1	0	5	2	8
		0.0%	0.0%	12.5%	0.0%	62.5%	25.0%	100.0%
	<b>6. \$401-\$500</b>	0	0	2	1	4	2	9
		0.0%	0.0%	22.2%	11.1%	44.4%	22.2%	100.0%
	<b>7. \$501-\$600</b>	0	0	0	2	2	5	9
		0.0%	0.0%	0.0%	22.2%	22.2%	55.6%	100.0%
	<b>8. &gt;\$601</b>	0	0	0	2	2	2	6
		0.0%	0.0%	0.0%	33.3%	33.3%	33.3%	100.0%
	<b>Column total</b>	1	1	5	19	91	57	174
		0.6%	0.6%	2.9%	10.9%	52.3%	32.8%	100.0%

Chi-Square = 32.771, df = 35, p = .576 (ns)

Pearson's R = -.055, p = .472 (ns)

The satisfaction level on Question 23 (“Family mediation could help us reach an agreement on properties arrangements”) varies with the number of joint sessions. Respondents who had 1-4 sessions tend to moderately disagree with this statement, while those who had more sessions tend to have higher ratings. This difference is not statistically significant.

**Table 5. 25 Cross-tab on Q23 and Mediation Fees**

		<b>23. Family mediation could help us reach an agreement on properties arrangements.</b>						
		<b>Strongly disagree</b>	<b>Moderately disagree</b>	<b>Slightly disagree</b>	<b>Slightly agree</b>	<b>Moderately agree</b>	<b>Strongly agree</b>	<b>Row total</b>
		<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	
<b>Mediation fee</b>	<b>1. 0</b>	0	0	0	1	1	0	2
		0.0%	0.0%	0.0%	50.0%	50.0%	0.0%	100.0%
	<b>2. 1-2</b>	0	2	3	5	24	13	47
		0.0%	4.3%	6.4%	10.6%	51.1%	27.7%	100.0%
	<b>3. 3-4</b>	2	1	1	7	38	28	77
		2.6%	1.3%	1.3%	9.1%	49.4%	36.4%	100.0%
	<b>4. 5-6</b>	0	0	0	2	17	6	25
		0.0%	0.0%	0.0%	8.0%	68.0%	24.0%	100.0%
	<b>5. 7-8</b>	0	0	0	1	7	2	10
		0.0%	0.0%	0.0%	10.0%	70.0%	20.0%	100.0%
	<b>6. 9-10</b>	0	0	0	1	2	0	3
		0.0%	0.0%	0.0%	33.3%	66.7%	0.0%	100.0%
	<b>7. 11 or above</b>	0	0	1	0	3	1	5
		0.0%	0.0%	20.0%	0.0%	60.0%	20.0%	100.0%
	<b>Column total</b>	2	3	5	17	92	50	169
		1.2%	1.8%	3.0%	10.1%	54.4%	29.6%	100.0%

Chi-Square = 24.405, df = 30, p = .753 (ns)

Pearson's R = .023, p = .765 (ns)

### 5.5.3 Overall Satisfaction

Only three items have significant correlates. They are Question 45 (charges), Question 46 (duration), and Q47 (service coordination).

### 5.5.3.1 Charges (Table 5.26 to Table 5.28)

The satisfaction level on Question 45 (“I am satisfied with the charges”) varies with the number of children the divorcing/ separating couples have. Couples having less than three children tend to be moderately satisfactory, while those who have four or above either strongly disagree or strongly agree. Though the difference is statistically significant, the results should be interpreted with caution considering the small sample size of respondents having four children or above (n=1).

**Table 5. 26 Cross-tab on Q45 and Number of Children**

		<b>45. I am satisfied with the charges.</b>						
		<b>Strongly disagree</b>	<b>Moderately disagree</b>	<b>Slightly disagree</b>	<b>Slightly agree</b>	<b>Moderately agree</b>	<b>Strongly agree</b>	<b>Row total</b>
		<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	
<b>Number of children</b>	<b>1. none</b>	0	0	0	2	9	6	17
		0.0%	0.0%	0.0%	11.8%	52.9%	35.3%	100.0%
	<b>2. 1 child</b>	0	0	1	13	47	45	106
		0.0%	0.0%	0.9%	12.3%	44.3%	42.5%	100.0%
	<b>3. 2 children</b>	1	0	1	8	32	19	61
		1.6%	0.0%	1.6%	13.1%	52.5%	31.1%	100.0%
	<b>4. 3 children</b>	0	1	0	3	6	4	14
		0.0%	7.1%	0.0%	21.4%	42.9%	28.6%	100.0%
	<b>5. 4 or above</b>	1	0	0	0	0	1	2
		50.0%	0.0%	0.0%	0.0%	0.0%	50.0%	100.0%
	<b>Column total</b>	2	1	2	26	94	75	200
		1.0%	0.5%	1.0%	13.0%	47.0%	37.5%	100.0%

Chi-Square = 68.016, df = 20, p < .001

Pearson's R = -.191, p < .01

The satisfaction level on Question 45 also varies with the mediation fees. Respondents who paid less than \$200 or more than \$500 tend to be moderately satisfactory, while those who paid \$201-\$500 have larger variation on this question.

**Table 5. 27 Cross-tab on Q45 and Mediation Fees**

		45. I am satisfied with the charges.						
		Strongly disagree 1	Moderately disagree 2	Slightly disagree 3	Slightly agree 4	Moderately agree 5	Strongly agree 6	Row total
Mediation fee	1. \$ 0	1	0	0	8	39	38	86
		1.2%	0.0%	0.0%	9.3%	45.3%	44.2%	100.0%
	2. <\$100	0	0	0	7	21	23	51
		0.0%	0.0%	0.0%	13.7%	41.2%	45.1%	100.0%
	3. \$101-\$200	0	0	0	2	9	1	12
		0.0%	0.0%	0.0%	16.7%	75.0%	8.3%	100.0%
	4. \$201-\$300	0	0	1	2	3	3	9
		0.0%	0.0%	11.1%	22.2%	33.3%	33.3%	100.0%
	5. \$301-\$400	0	1	0	1	5	2	9
		0.0%	11.1%	0.0%	11.1%	55.6%	22.2%	100.0%
6. \$401-\$500	1	0	1	2	2	3	9	
	11.1%	0.0%	11.1%	22.2%	22.2%	33.3%	100.0%	
7. \$501-\$600	0	0	0	2	7	3	12	
	0.0%	0.0%	0.0%	16.7%	58.3%	25.0%	100.0%	
8. >\$601	0	0	0	1	6	1	8	
	0.0%	0.0%	0.0%	12.5%	75.0%	12.5%	100.0%	
<b>Column total</b>		2	1	2	25	92	74	196
		1.0%	0.5%	1.0%	12.8%	46.9%	37.8%	100.0%

Chi-Square = 65.719, df = 35, p < .01  
 Pearson's R = -.198, p < .01

The satisfaction level on Question 45 also varies with sponsorship. Higher percentage of respondents receiving no sponsorship (4.8%) than those having sponsorship (1.4%) disagree with this statement. This difference is not statistically significant.

**Table 5. 28 Cross-tab on Q45 and Sponsorship**

		45. I am satisfied with the charges.						
		Strongly disagree 1	Moderately disagree 2	Slightly disagree 3	Slightly agree 4	Moderately agree 5	Strongly agree 6	Row total
Sponsorship	1. yes	1	1	1	19	65	63	150
		0.7%	0.7%	0.7%	12.7%	43.3%	42.0%	100.0%
	2. no	1	0	1	7	23	10	42
		2.4%	0.0%	2.4%	16.7%	54.8%	23.8%	100.0%
<b>Column total</b>		2	1	2	26	88	73	192
		1.0%	0.5%	1.0%	13.5%	45.8%	38.0%	100.0%

Chi-Square = 6.310, df = 5, p = .277 (ns)  
 Pearson's R = -.146, p < .05

**5.5.3.2 Duration (Table 5.29 to Table 5.30)**

On Question 46 (“I am satisfied with the mediation duration”), the scores varies with the mediation fee as well. The pattern is similar to that with Question 45.

**Table 5. 29 Cross-tab on Q46 and Mediation Fees**

		<b>46. I am satisfied with the mediation duration.</b>						
		<b>Strongly disagree 1</b>	<b>Moderately disagree 2</b>	<b>Slightly disagree 3</b>	<b>Slightly agree 4</b>	<b>Moderately agree 5</b>	<b>Strongly agree 6</b>	<b>Row total</b>
<b>Mediation fee</b>	<b>1. 0</b>	0	0	0	7	47	34	88
		0.0%	0.0%	0.0%	8.0%	53.4%	38.6%	100.0%
	<b>2. &lt;\$100</b>	0	0	0	6	23	22	51
		0.0%	0.0%	0.0%	11.8%	45.1%	43.1%	100.0%
	<b>3. \$101-\$200</b>	0	0	0	3	9	0	12
		0.0%	0.0%	0.0%	25.0%	75.0%	0.0%	100.0%
	<b>4. \$201-\$300</b>	0	0	2	2	3	2	9
		0.0%	0.0%	22.2%	22.2%	33.3%	22.2%	100.0%
	<b>5. \$301-\$400</b>	0	1	0	0	5	3	9
		0.0%	11.1%	0.0%	0.0%	55.6%	33.3%	100.0%
<b>6. \$401-\$500</b>	0	0	1	2	3	3	9	
	0.0%	0.0%	11.1%	22.2%	33.3%	33.3%	100.0%	
<b>7. \$501-\$600</b>	0	0	0	2	6	4	12	
	0.0%	0.0%	0.0%	16.7%	50.0%	33.3%	100.0%	
<b>8. &gt;\$601</b>	0	0	0	2	4	2	8	
	0.0%	0.0%	0.0%	25.0%	50.0%	25.0%	100.0%	
<b>Column total</b>	0	1	3	24	100	70	198	
	0.0%	0.5%	1.5%	12.1%	50.5%	35.4%	100.0%	

Chi-Square = 70.546, df = 28, p < .001  
 Pearson's R = -.172, p < .05

Moreover, the satisfaction level on Question 46 also varies with the whether or not having sponsorship. Higher percentage of respondents receiving no sponsorship (4.7%) than those having sponsorship (2.0%) disagree with this statement.

**Table 5. 30 Cross-tab on Q46 and Sponsorship**

		<b>46. I am satisfied with the mediation duration.</b>						
		<b>Strongly disagree 1</b>	<b>Moderately disagree 2</b>	<b>Slightly disagree 3</b>	<b>Slightly agree 4</b>	<b>Moderately agree 5</b>	<b>Strongly agree 6</b>	<b>Row total</b>
<b>Sponsorship</b>	<b>1. yes</b>	0	2	1	16	72	60	151
		0%	1.3%	0.7%	10.6%	47.7%	39.7%	100.0%
	<b>2. no</b>	0	0	2	8	24	9	43
		0.0%	0.0%	4.7%	18.6%	55.8%	20.9%	100.0%
	<b>Column total</b>	0	2	3	24	96	69	194
		0.0%	1.0%	1.5%	12.4%	49.5%	35.6%	100.0%

Chi-Square = 9.523, df = 4, p < .05

Pearson's R = -.165, p < .05

**5.5.3.3 Service Coordination (Table 5.31 to Table 5.32)**

The satisfaction level on Question 47 (“I am satisfied with the coordination between mediation service and other services, such as litigation and counselling”) varies with educational level. A few respondents whose educational level is above senior high school tend to moderately disagree with this statement. This difference is not statistically significant.

**Table 5. 31 Cross-tab on Q47 and Educational Level**

		<b>47. I am satisfied with the coordination between mediation service and other services, such as litigation and counselling.</b>							
		<b>Strongly disagree 1</b>	<b>Moderately disagree 2</b>	<b>Slightly disagree 3</b>	<b>Slightly agree 4</b>	<b>Moderately agree 5</b>	<b>Strongly agree 6</b>	<b>Row total</b>	
<b>Education level</b>	<b>1. none</b>	0	0	0	0	0	1	1	
		0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%	
	<b>2. primary school</b>	0	0	0	1	3	3	7	
		0.0%	0.0%	0.0%	14.3%	42.9%	42.9%	100.0%	
	<b>3. junior high school</b>	0	0	0	3	28	14	45	
		0.0%	0.0%	0.0%	6.7%	62.2%	31.1%	100.0%	
	<b>4. senior high school</b>	0	1	2	10	42	24	79	
		0.0%	1.3%	2.5%	12.7%	53.2%	30.4%	100.0%	
	<b>5. university or above</b>	0	1	4	13	29	21	68	
		0.0%	1.5%	5.9%	19.1%	42.6%	30.9%	100.0%	
	<b>Column total</b>	0	2	6	27	102	63	200	
		0.0%	1.0%	3.0%	13.5%	51.0%	31.5%	100.0%	
			Chi-Square = 12.126, df = 16, p = .735 (ns)						
			Pearson's R = -.157, p < .05						

The satisfaction level on Question 47 also varies with sponsorship. Higher percentage of respondents receiving no sponsorship (4.7%) than those having sponsorship (2.0%) disagree with this statement. This difference is not statistically significant.

**Table 5. 32 Cross-tab on Q47 and Sponsorship**

		<b>47. I am satisfied with the coordination between mediation service and other services, such as litigation and counselling.</b>						
		<b>Strongly disagree 1</b>	<b>Moderately disagree 2</b>	<b>Slightly disagree 3</b>	<b>Slightly agree 4</b>	<b>Moderately agree 5</b>	<b>Strongly agree 6</b>	<b>Row total</b>
<b>Sponsorship</b>	<b>1. yes</b>	0	2	1	16	72	60	151
		0%	1.3%	0.7%	10.6%	47.7%	39.7%	100.0%
	<b>2. no</b>	0	0	2	8	24	9	43
		0.0%	0.0%	4.7%	18.6%	55.8%	20.9%	100.0%
	<b>Column total</b>	0	2	3	24	96	69	194
	0.0%	1.0%	1.5%	12.4%	49.5%	35.6%	100.0%	

Chi-Square = 9.523, df = 4, p < .05  
 Pearson's R = -.165, p < .05

**5.6 Correlates of Satisfaction on Mediation Process and Service (Table 5.33)**

The table 5.32 below shows the correlation between key variables and process (sum and components). We found that the sum score is significantly and positively correlated with number of joint sessions (.138\*), suggesting that the more joint sessions one have, the more satisfied s/he becomes with the mediation process. Looking at the items, Question 28 (“I think I can understand the other party’s issues of concern and standpoints”) is significantly but negatively correlated with sponsorship, suggesting that the subvented cases have more chances to understand the other party. Similarly, Q30 (“I think family mediation can help the other party to process things in a calm and rational manner”) and Q32 (“I think family mediation can promote our communication”) are

positively correlated with the number of joint sessions (.154\*) and individual sessions (.172\*), respectively.

Taken together, the mediation process, both the individual sessions and joint sessions, is viable to strengthen spousal relationship quality and reduce psychological distress.

**Table 5. 33 Bivariate Correlation: Child Custody and Key Variables**

		Process (sum)	Q27	Q28	Q29	Q30	Q31	Q32	Q33
Demographics	Gender	-.063	-.006	-.077	-.065	-.088	-.022	-.059	-.052
	Age	-.031	.079	-.014	-.047	-.088	-.024	-.116	.056
	Education	-.003	-.010	-.009	.013	.053	-.079	.046	-.039
	Income	.006	-.023	-.010	.007	.060	-.038	.003	.028
	Birthplace	.119	.076	<b>.142*</b>	.101	.072	.134	.087	.097
	Number of children	-.056	-.046	-.025	-.076	-.093	-.050	-.034	-.010
Service-related	Mediation fee	-.045	-.044	-.071	.016	.047	-.079	-.122	-.010
	Sponsorship	-.093	-.054	<b>-.146*</b>	-.085	-.037	-.119	-.051	-.069
	Individual sessions	.108	.062	.010	.088	.117	.080	<b>.172*</b>	.092
	Joint sessions	<b>.138*</b>	.125	.106	.131	<b>.154*</b>	.095	.118	.091

## 5.7 Summary

Drawing upon a sample of 205 service users, this survey investigates the users' satisfaction with the mediation service, particularly in terms of its outcomes and processes. The majority of them were female and aged 31-50. Nearly three-quarters had an educational level higher than middle school. More than two thirds of them were working on a full-time basis, or had a monthly income below \$30,000. . Respondents were invited to rate the questionnaire on a scale of one to six. The average score ranged from 4.65 to 5.31, suggesting a high level of satisfaction.

To gauge the outcomes and process of FC's Pilot Scheme, particularly in terms of assessing the agreement reached on the matter(s) being mediated and user's satisfaction with mediation service as a whole, bivariate correlation and cross tabulation analysis were conducted. It was found that respondents from different socio-economic backgrounds do not differ much when rating the satisfaction survey. Results with statistical significance were reported below:

- 5.7.1 Respondents generally have a high level of satisfaction on the other party's compliance to mediation outcomes. The average scores for child custody and financial allotment are 4.83 and 4.87, respectively.
- 5.7.2 No significant findings between FC-cases and non-FC cases were found in terms of the five domains.
- 5.7.3 Respondents' educational level is negatively correlated with compliance to child custody (-.183<sup>\*</sup>) and satisfaction on service coordination (-.157<sup>\*</sup>), probably because parents with higher educational levels are more aware of their children's developmental needs, and higher expectation on service coordination.
- 5.7.4 Mediation fees is negatively correlated with agreement on life expenditure arrangements for the other party (-.145<sup>\*</sup>), partly due to the high-conflictual nature of financial allotment even at the cost of paying a large sum of mediation fee.
- 5.7.5 Mediation fees is also negatively correlated with service charges (-.198<sup>\*</sup>) and duration (-.172<sup>\*</sup>), suggesting that users paying larger sum of mediation fees expect the service to be less expensive and more time-saving.

- 5.7.6 The number of joint sessions is positively correlated with agreement on properties arrangement (.164\*), probably because more joint sessions allows for more in-depth discussions on disputed issues.
- 5.7.7 Whether or not receiving sponsorship is negatively correlated with satisfaction on service charges (-.146\*), duration (-.165\*), and coordination (-.143\*), suggesting that sponsored services save money and time.
- 5.7.8 The number of children is negatively correlated with satisfaction on charges (-.191\*), probably because the more the children, the more adversarial the situation becomes, which results in more time and higher charges.
- 5.7.9 The mediation process, both the individual sessions and joint sessions, is viable to strengthen spousal relationship quality and reduce psychological distress. It works in a way to promote communication by helping both parties to understand each other's standpoints, process things calmly and rationally.

## **CHAPTER 6: INTERVIEW**

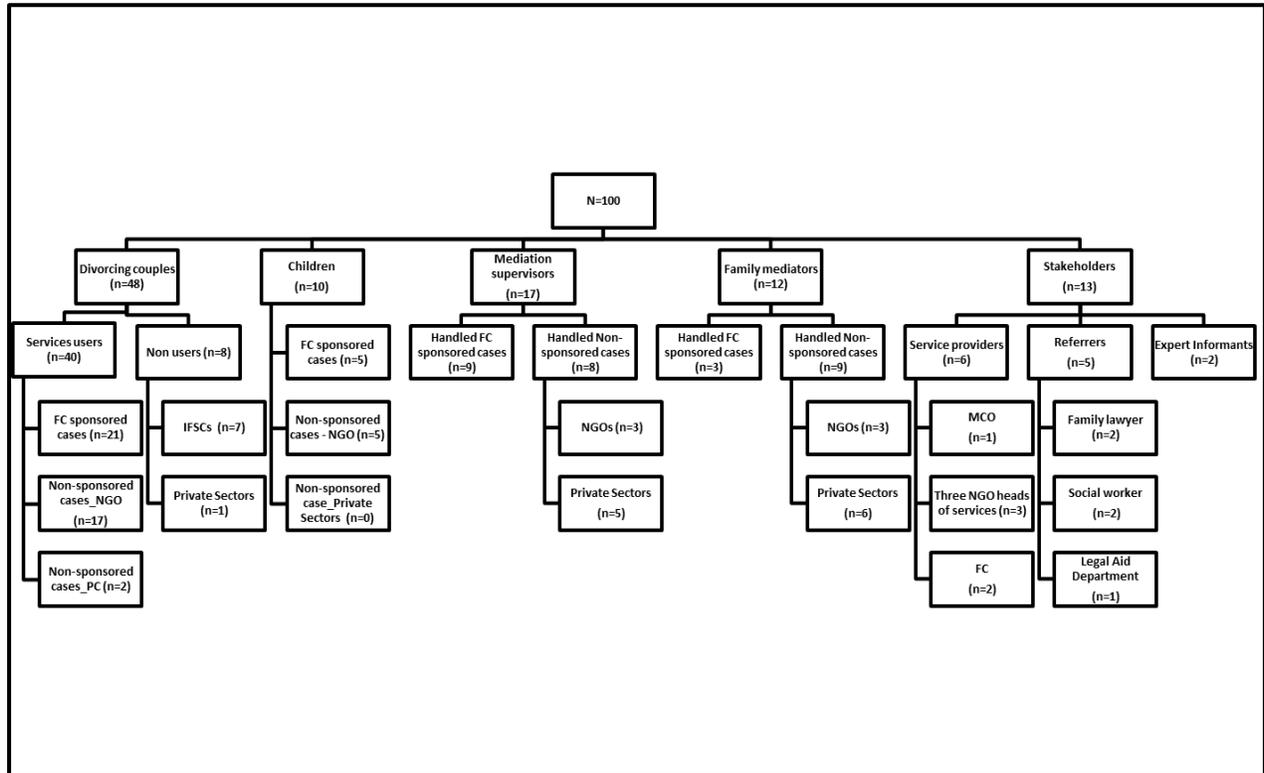
### **6.1 Data Collection and Data Analysis**

The FC-sponsored cases were referred by the HKFWS, the HKCMAC and the YMMSS. Whereas most of the non-sponsored cases were identified from these three NGOs, few non-sponsored cases were referred by private practitioners including legal professionals and a psychologist. Family mediators and supervisors were mainly recruited from 6 NGOs and others were identified from the panel list of the HKMAAL or through personal network. The majority of the non-service users were referred by the IFSCs and few of non-service users were identified from the law firms. All children informants of FC-sponsored and non-sponsored cases were the kids of the informants who were also the cases of the HKCMAC. All the service providers and the service referrers were recruited as planned. Two expert informants were newly added and interviewed in order to enrich our understanding of the service.

We conducted 100 interviews for different categories of informants (Diagram 6.1). When we compared with the sample size, we achieve a high response rate for most of the categories of informants except informants from the private sector and family mediators who handled FC-sponsored cases (Table 6.1). The family mediators and the supervisors of private sector revealed that they were hard to refer the service users and their children to us as they were very much concerned about the issue of confidentiality, especially these were the clients of the family mediators and the supervisors. Likewise, private practitioners who handled divorce cases, whether they were legal professionals or other helping professionals, were hesitated to refer non-service users to our study due to the

privacy issue. The low response rate of family mediators who handled FC-sponsored cases was because most of the FC-sponsored cases were handled by the supervisors. Hence, the numbers of supervisors who handled FC-sponsored cases was more than planned.

**Diagram 6. 1 Total Number of Interviews Conducted**



**Table 6. 1 The Sample Size and the Actual Number of Interviews**

	Divorcing Couples					Family Mediators				Family Mediation Supervisors		Children		Stakeholders			
	FC-sponsored Cases	Non-sponsored Cases		Non-service Users		FC-sponsored Agencies	Non-sponsored Agencies		FC-sponsored Agencies	Non-sponsored Agencies		FC-sponsored Cases	Non-sponsored Cases		Expert	Referrer	Provider
		NGOs	Private Sector	NGOs	Private Sector		NGOs	Private Sector		NGOs	Private Sector		NGOs	Private Sector			
Sample Size	20	10	10	10	10	8	4	4	6	3	3	8	4	4	2	4	6
No. of Interviews	21 (105%)	17 (170%)	2 (20%)	7 (70%)	1 (10%)	3 (37.5%)	3 (75%)	6 (150%)	9 (150%)	3 (100%)	5 (166.7%)	5 (62.5%)	5 (125%)	0 (0%)	2 (100%)	5 (125%)	6 (100%)

Each interview was audio-tapped and then transcribed verbatim by our student

helpers. Then, we used the Nvivo 10 computer software to organise, code and categorize the data. The process of data analysis was divided into three stages: generative, interpretive, and theorizing. The first stage in the analytic process could best be described as an increasingly detailed reading of the interview transcripts for the purpose of identifying themes from the participants' experiences. The generated meanings were coded into nodes, and the nodes were then categorized into a common theme. In the interpretative phase, the themes were translated into "conceptual categories" by finding connections between those themes. In the theorizing phase, the explanatory propositions were developed from the analysis of the conceptual categories<sup>96,97</sup>.

To ensure the credibility of the data, the research team performed a check of the transcription's accuracy. All the interviews were conducted by members of the research team and all the transcriptions were carefully checked and analyzed by the research team. The research team also held several meetings to discuss the coding and the themes that emerged in order to minimize any interpretative bias and to ensure the study was rigorous.

## **6.2 Findings of Interview**

### **6.2.1 VIEWS OF SERVICE USERS**

#### **6.2.1.1 Informants' Profiles**

For this study, we have interviewed 40 service users, including 21 FC-sponsored cases and 19 non-sponsored cases (Table 6.2). Regarding the FC-sponsored cases, most of them were females (n = 14), aged 41-50 (n = 9), had a high school educational level (n =

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<sup>96</sup> Connolly, M. (2003). Qualitative analysis: a teaching tool for social work research. *Qualitative Social Work*, 2(1), 103-112.

<sup>97</sup> Wan, E. S., Ma, J. L., Lai, K. Y., & Lo, J. W. (2016). The Subjective Experiences of attention-Deficit/Hyperactivity Disorder of Chinese Families in Hong Kong: Co-Construction of Meanings in Multiple Family Groups. *Health & Social Work*, 1-9 (hlw023).

14), had a full time job (n = 14) and have been married / cohabiting for 11 to 15 years (n = 7). These informants were identified from three agencies, namely the CMAC (n = 8), the HKFWS (n = 11) and the YMMSS (n = 2).

The profiles of the informants from non-FC sponsored cases were similar to those from the FC-sponsored cases in terms of sex and occupation, as most of them were female (n = 12) and had a full time job (n = 13). Nevertheless, the majority of the non-sponsored informants were 50 years old or above (n = 10), had a university or above education level (n = 11), and had been married / cohabiting from 6 to 10 years (n = 6) or over 20 years (n = 6). The majority were recruited from the three NGOs (n = 17) mentioned above and a few were identified from the private sector (n = 2).

**Table 6. 2 Profiles of the Service Users**

		<b>FC(n=21)</b>	<b>Non-sponsored (n=19)</b>
<b>Sex</b>	Male	7	7
	Female	14	12
<b>Age</b>	21-30	0	0
	31-40	7	4
	41-50	9	5
	>50	5	10
<b>Education</b>	Below junior high school	1	1
	High school	14	7
	University or above	6	11
<b>Occupation</b>	Full-time housework	4	3
	Full-time work	14	13
	Part-time work, unemployed, retired	3	3
<b>Length of marriage/ co-habiting</b>	1-5 years	3	1
	6-10 years	4	6
	11-15 years	7	2
	16-20 years	2	4
	>20 years	5	6
<b>Source of family mediation</b>	Hong Kong Catholic Marriage Advisory Council (HKCMAC)	8	9
	Hong Kong Family Welfare Society (HKFWS)	11	7
	Yang Memorial Methodist Social Service (YMMSS)	2	1
	Counselling agency	0	1
	Law Firm	0	1

The interviews with the service users provided fruitful information about the experiences of using family mediation. Both FC-sponsored cases and non-sponsored cases shared a similar view on the service. Most of them were satisfied with the service, appraised the positive influences of the service on themselves and their families, and identified both positive and negative elements in attaining their agreement.

### 6.2.1.2 Users' Satisfaction Level and Source of Satisfaction

Both the FC-sponsored and non-sponsored users appraised the service as very satisfactory, helpful and humane in facilitating dealing with the divorce related issues.

*Satisfied, very satisfied. The problem has been solved. It has really been solved now. I feel very safe. Also, the social worker [XX] has other good suggestions. She really cares about me. (SU\_NFC\_NGO\_16)<sup>98</sup>*

*I don't have any comments. It has already transcended the profession. She is very professional already and I cannot think of anything that needs to be improved. (SU\_FC\_NGO\_02)*

#### 6.2.1.2.1 Saved Time and Money

The informants regarded that divorce was a very time-demanding and emotional intensive process so that they wanted to settle the disputes as soon as possible. Compared with litigation that was time-consuming and required a high legal fee, they perceived that family mediation was cost-effective and efficient. Both the FC-sponsored and the non-sponsored clients revealed that the service saved time and were able to release them from the financial burden of litigation.

*It can be solved quickly. If it is in court, it won't be solved right now. The court case might last for at least a few years. It is costly and time consuming. (SU\_NFC\_NGO\_07)*

*I think it is good and really helpful. I could not think of other ways to deal with the issue. If I was rich, I would hire a lawyer. However, in my situation i.e. a low income and low educational level, I think they are very good already. (SU\_NFC\_NGO\_16)*

*It's useful and helpful. The cost is very reasonable, a real bargain. Take my case as an example; mine was semi-subsidized and I think it was a bargain. I did not think about it and did not know that I could spend so little to deal with the issue when I filed a divorce. I expected to spend at least ten thousand or more. However, the lawyer told me that the payment was not enough. The first session cost more than ten thousand dollars already. (SU\_FC\_NGO\_10)*

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<sup>98</sup> The codes represent the different categories of the informants whereas NFC refers to non-sponsored cases, FC refers to FC-sponsored cases. For detail, please refer to Appendix XVIII.

In addition, the schedule of the mediation meetings was more flexible and negotiable than that of the court hearings. Their family mediators could arrange a meeting that matched the schedule of the service users, which resulted in increasing the service users' sense of autonomy.

*They [The family mediators] would try to meet you as soon as possible and I think it was very good. Also, each time the scheduling was very good because they fitted it well to our timetable and needs. Adequate time would also be given to us so that we could think about the issues carefully. They would not give you an intensive schedule. Overall, their plan was really nice. (SU\_NFC\_NGO\_08)*

*Actually, it is good. The good point is that it is like the services in a community center as their service charge is much cheaper and it fits quite well with my schedule. If I find lawyers or other professionals, it will be difficult to do mediation because it is more difficult to make an appointment with them. It is more convenient for me to get to the community center. In addition, in contrast to the charges levied by other professionals, although I don't have to pay the fee at the moment, I think it will be negotiable if I have to do that. They will always try their best to match our available time. (SU\_FC-NGO\_02)*

#### **6.2.1.2.2 Relief Psychological Stress**

At the same time, the informants perceived that the service helped them to minimize the psychological stress in the divorce, and thus helped them to move on with their lives quickly after the divorced.

*In fact, in terms of time, money, and psychological suffering, it is much lower. If you find a lawyer to help, it will be very time-consuming because you cannot deal with the issues within two months. If you have properties, the duration could be half a year. The fee must be high. The more time I spend, the more serious my mental torture. This is a fact. It usually is the best if the issues can be dealt with as fast as possible. (SU\_FC\_NGO\_14)*

*I think that it [the service] is very good and it must develop sustainably. At least it helps you avoid the economic burden...I mean it reduces the stress during the legal procedure. You will feel happier because the pressure [on you] in court can be reduced. (SU\_NFC\_NGO\_09)*

### **6.2.1.2.3 Advice and Information Received from the Mediators**

The service users were usually highly dependent on the mediators for information and professional advice, particularly those who lacked legal knowledge. Their family mediators provided them guidance in order to minimize their worry and increase their predictability in the divorce procedures. Overall, they described their family mediators as resourceful, patient and helpful.

*In May 2015, I got the decree absolute. The process was very smooth overall. Initially, I did not know the procedure for divorce and I did not know who I should ask for help. It was XX [the family mediator] who taught me how to do it. She taught me when and how to submit the forms. She also reminded me of the forms that needed to be filled in when I had to submit the application. She helped me arrange and settle all the things. Overall, it was very good. It was very efficient and I did not need to worry about it. (SU\_FC\_NGO\_06)*

*She really, really knew a lot, and was very knowledgeable, especially in the social context of Hong Kong. She [The family mediator] can answer all the things that you ask. You have to have a certain level of knowledge to do that, right? She has that capacity and we have confidence in her. It might not necessarily be in the scope of her responsibilities but she was eager to answer and provide information to me. The help seekers will have confidence in her. (SU\_NFC\_NGO\_11)*

### **6.2.1.2.4 Emotional Support from the Mediators**

Most service users revealed that their family mediators not only provided tangible help but also emotional support to them. Their family mediators listened to their concerns, treated them with respect, followed their pace of change and cared for them.

*That was my personal experience and I really felt stressed. There was someone who could really help me. (SU\_NFC\_PC\_01)*

*Ms. X [The family mediator] had other good suggestions. She took good care of me and said, "You went out so early this morning, did you take your medicine on time?" She knew that I need to take medicine. (SU\_NFC\_NGO\_16)*

*She [The family mediator] told me some information. I started to think that if the relationship cannot be improved within a short period of time, I will think of some formal ways to protect my son. For instance, I will get back the things that my son deserves to have. In case he [ex-spouse] did not keep his promise, I will still have something to help my son.*

*Therefore, if you ask me what Ms. X [the family mediator] can do better, I will have nothing to say. She can see things in even greater detail. What else can be added? I really cannot think of anything. (SU\_FC\_NGO\_09)*

#### **6.2.1.2.5 Agreement Reached with Autonomy**

Many service users pointed out they could communicate and negotiate with their ex-spouse in the mediation meetings peacefully and harmoniously, which they believed was quite impossible to achieve with litigation. They also felt that they had more autonomy over making decisions in the mediation process. They perceived that litigation was not a peaceful method to resolve disputes due to the oppositional attitude of the two parties. Sometimes, it might further escalate the emotions or even worsen the situation when they settled the disputes through the court. With the presence of a third part, mediation was a good platform for the divorcing couples to express their concerns, ideas and emotions freely and in a calm way. As a result, both parties might gain more understanding of each other.

*I remember that in the court, the cases which the officer pointed at were very thick, probably about one-foot-thick. Will he study them in great detail? I don't think so. In fact, I think we both did not want to give it to the officer to judge because he would not understand our situation. He only met us for around ten minutes and he might not quite understand our needs clearly. In contrast, the family mediator could help us to express what we really want. Time is allowed for us to express our needs freely. (SU\_FC\_NGO\_03)*

*I think that it is very good and it must develop sustainably. At least it helps you avoid the economic burden...I mean it reduces the stress during the legal procedure. You will feel happier because the pressure in court can be reduced. Also, further family tensions and conflicts can be reduced. Without the mediation service, things may get even worse through the formal legal procedure. So, this can lead to the solution. It does not have to go through a war-like procedure. (SU\_NFC\_NGO\_09)*

Some service users appreciated the neutrality and the sophisticated skills of the family mediators, which could help them to be less defensive toward each other. As a

result, they were able to make some decision rationally through negotiation.

*If you allow a mediator to do it, you'll think that he is not helping either the husband or the wife. He just tells you the facts and leads you to use a more correct way to solve the problem. In this way, things will become better because you do things after your careful consideration. (SU\_FC\_NGO\_09)*

*I think it is good actually because the mediators always try their best to help you get a good balance. (SU\_FC-NGO\_02)*

*If you ask me whether it helped, I will say it helped a lot. Without the service, we wouldn't have had the chance to talk with each other. Basically, you can always find lawyers to deal with the issues. However, if it is through mediation, the mediators will be very sensitive to the feelings and reactions of both sides. They will know when to separate you to talk about some specific situations. They will talk to one side first and then the other. After the discussions, if he grasps what I tell him, he will try to negotiate with the other side, and vice versa. Then a consensus can be reached or the distance between the two sides becomes closer. Then, he will arrange for us to stay together to continue our discussions. He will encourage both sides to understand each other. I think it is quite ok. (SU\_FC\_NGO\_14)*

### **6.2.1.3 Positive Influences of Family Mediation on the Relationships**

The service users perceived that divorce always had some negative impact on family relationships. Due to their concern about their children's and their other family members' psychological well-being, many service users did not want to intensify the conflict with their ex-spouse and they really hoped to sustain a harmonious or a less hostile relationship with each other after divorce. They appraised that family mediation could achieve these goals, and in particular, help achieve and sustain harmonious relationships with their ex-spouse, children and extended family members.

*Actually, the legal procedure can be avoided. That procedure is quite annoying. As for family mediation, the feeling there is apparently more relaxed. We could really sit together to talk. After open and sincere discussions, the problems can be solved subsequently. It really does not have to be in the court all the time at all! (SU\_FC\_NGO\_03)*

*What are the bad things [about litigation]? Well, you always have to cite some evidence to prove how your ex-spouse behaves and this evidence will be offensive, which could make our relationship even worse. If the issue can be dealt with before the court*

*hearing and there is a mediator, a consensus can be reached. By following on from the common ground, bridges can then be built between the two sides and that becomes a consensus. (SU\_NFC\_PC\_02)*

#### **6.2.1.3.1 Re-build Relationship between the Divorced Couples**

Instead of doing harm to each other, the open and the honest atmosphere in the mediation meetings could facilitate a mutual understanding between the divorcing couples. Some informants felt more comfortable with contacting their ex-spouse after divorce. Some said that they had fewer arguments and conflicts with each other. Even some regarded that they could re-build a trustful relationship and a constructive communication after mediation.

*In terms of our relationship, we have become calmer and there are fewer arguments. This is different from what we used to be. (SU\_NFC\_NGO\_11)*

*At least there is more communication. After mediation, we become confident towards each other. That is, we start to trust each other. Previously, we didn't. (SU\_FC\_NGO\_08)*

*Throughout the entire process, I found that my husband and I had opened up our hearts through the counselling or mediation service. Although we had to divorce ultimately, we at least would not have any hostile feelings or uncooperative attitudes towards each other from dealing with the issue. That's the thing which I think is the best. Even though there are still some barriers owing to the occurrence of unhappy events which lasted for a long time, at least it broke the ice and we started to have conversations again. (SU\_FC\_NGO\_04)*

*I thank the mediation service this time. Without it, the issue would not have been dealt with. That is, we would not have had the discussions. In that scenario, even if the judge had made a final decision to declare that I won or he won, both sides would not have lived happily at all. Now, after mediation, the communication between both sides has become much better. Indeed, not all things have to be judged in court. (SU\_FC\_NGO\_08)*

As concluded by the informants, even though the marital relationship was unamendable, it ended peacefully and without any negative impact on the relationship in the long run.

*I think it's like...like...a very good medical service. That is, something...has already become a life. It is about to die but you can choose to let it die peacefully. You don't let it rot to a terrible condition. That's why I believe that it is more positive compared with the religious services that I know of. The service really helps the clients practically. (SU\_NFC\_NGO\_09)*

### **6.2.1.3.2 Impacts on Children**

#### 6.2.1.3.2.1 Minimize the Negative Impact on the Children

Some informants were aware of the negative impact of divorce on their children and so they tried their best to avoid the divorce unnecessarily harming them. In addition, they were very sensitive to the responses of their children towards their parent's divorce and tried not to trap the children in their marital conflict. Therefore, they preferred to use a peaceful way to resolve their child-related disputes. Some interviewees sensed that their children's stress over the parental divorce was relieved after mediation.

*I initially thought that the influence on him [the child] would not be very large. It wouldn't affect his emotions, at least. I [mother] was still available to handle and follow the stuff so the direct influence on him would not be that large. Then, I found that he would feel unhappy because he could not always see his father....At that time, we still had not finished the procedure, and he [ex-husband] sometimes visited him [the child] as he did not live with us. At night, he would try to persuade his father to stay and tell him a story until he fell asleep. His daddy did not dare to say anything because he knew that I would not allow him to stay. I found that the child was very smart. His eyes were filled with tears when he looked at me. He clearly knew that it was me who made the decision, or he knew that I did not like it and would not let his daddy stay. His gaze seemed to tell me that he wished me to say "Yes". However, he would ask his daddy first and look at me afterwards. He clearly understood that his daddy did not speak because he could not make the decision. These moments were really sad. Therefore, it was not the mediation which could have certain influences on the child. Instead, it was our separation which affected him. I felt very sad too but I could not help at all." (SU\_FC\_NGO\_10)*

*For the children, I think that's right. If it weren't for the service, I don't know how much more time it would require to solve it. Actually, when the child saw that we always argue with each other, er...the entanglement really make her sad. After our separation, she has become happier instead. Perhaps it is due to the fact that there aren't any arguments anymore. I can see that there is a significant difference in her. Er...I could see that she really felt unhappy at that time. Now, even the maid feels that she is happier. (SU\_NFC\_NGO\_08)*

*If there are children, I believe that the influence on children will be reduced. My son is still very young so I do not know. Only those who are more mature know. I think that it will be quite sad if the parents shout at each other in court. I don't know if some children in some cases can determine which side they will live with when they grow older. They also need to be in court. That will have a great influence on the children if their wishes are asked for by the judge. Hence, if both sides can discuss with each other through mediation, the issue will be settled and the children will not be affected. Then, I think the mediation service will have been a decent choice. (SU\_FC\_NGO\_10)*

#### 6.2.1.3.2.2 Set up a Good Example for Children

At the same time, some parents considered that when parents use a peaceful way to resolve conflict, it sets a good example for their children.

*At that time the mediator told me that he wanted me to deal with the issue peacefully. He said that it would have a positive effect on my son. Undoubtedly, divorce has certain influences on the child as it is an unhappy event. I hope that the negative influences can be reduced. I want to let my child realize that if there are problems we could discuss the issue to settle it. We don't need to blame each other in court all the time at all. I agree with him to a large extent. (SU\_FC\_NGO\_10)*

#### 6.2.1.3.2.3 Preparation for Co-parenting

Some informants regarded that their experience with mediation prepared them to co-operate in parenting after divorce. With the support of the mediators, they were able to make a child care plan that could address the concerns of the parents on the one hand, and ensure the healthy development of their children on the other hand. Some family mediators imparted some of the relevant knowledge and skills of co-parenting to the divorcing couples, resulting in an improvement in the parent-child relationship after the mediation.

*I think it helped a lot. Yes, it's because the living arrangements for the child were very successful. Without their help, his mother would not have given me custody if she had known that. It really helped a lot regarding the living arrangements for the child.*

(SU\_FC\_NGO\_06)

#### **6.2.1.3.3 Relieving the Stress of Other Family Members**

Divorce brings about changes not only to the couples and their children, but also their extended family. Some informants regarded that if they were released from the pressure of divorce after the mediation, it would also relieve the stress on their family members.

*The issues will easily be dealt with if the children's emotions can be managed well. Then my feeling is that... children and the family become better. Despite the divorce, I feel that my ex-husband has changed. (SU\_FC\_NGO\_06)*

*My family members felt relaxed as they were worried about it too. I don't know...because there were many things in the case which had not been settled yet and I did not know what to do. How could they help me if they knew the result? (SU\_FC\_NGO\_02)*

#### **6.2.1.4 The Enabling Factors that Help Settle the Disputes**

With mistrust and accumulated harm in the marital relationship, the divorcing couples found it hard to negotiate with each other without the presence of a third party. The functions of a third party were to 1) provide guidance; 2) facilitate an equal participation of both parties; 3) offer new perspectives; and 4) ensure users' privacy.

##### **6.2.1.4.1 The Necessity of an Impartial Third Party**

###### **6.2.1.4.1.1 Provide Guidance**

The service users perceived that a family mediator was able to provide guidance to them in such matters as how to express their concerns clearly.

*Actually, marriage is a kind of trust relationship. We need this kind of service when we are without trust. The presence of the third party could help us make the arrangements required and reach a consensus. Even though it was done without a trusting relationship, we still hoped that there was a guide who could lead us and we would follow on. We*

*believed that it was better and we hoped that an agreement could be reached. (SU\_NFC\_PC\_02)*

#### 6.2.1.4.1.2 Equal Participation

The users valued the mediator's being neutral throughout the mediation process, as the neutrality of a family mediator facilitated an equal participation of the parties and thus they were able to make unbiased decisions.

*It will be different if a middle person helps me because even though your family members help you a lot, that will be useless. The other side will not buy it anyway. The presence of a third party is indispensable because that party is relatively neutral. Then, the other side will listen to it because of the neutrality. No matter how many people we found, they belonged to my side. It will be totally pointless to state that you are neutral. At the end of the day, the negotiation will fail. Hence, from my experience, the presence of a mediator during the process is significant. (SU\_NFC\_PC\_01)*

*Without any doubt, the mediation service is unbiased and neutral. It neither merely helps one side nor does it provide legal opinions. Thus, a balance can be held. (SU\_FC\_NGO\_16)*

#### 6.2.1.4.1.3 Offer New Perspectives

They appreciated the new angles to, and perspectives of, their disputes offered by the family mediators.

*Mediators have their own thoughts and analysis. As the old saying goes, those who are involved cannot see things as clearly as outsiders do. In this respect, they can help you mediate. (SU\_NFC\_NGO\_07)*

#### 6.2.1.4.1.4 Ensure Users' Privacy

The users (especially those who considered divorce a shame) didn't want their relatives and friends to know about or be involved in their divorce matters. The mediators, who were unrelated persons and professionals, could ensure the privacy of the service users.

*It does not feel at all right to find those relatives such as aunts and uncles who belong to either one side or the other. It is clear that they will feel ashamed if you have such an issue (divorce). Hence, the mediation service is the best choice because the mediator, as a third party does not know much about me. In my case, Ms. X does not entirely know us. We won't have any relationship after using the service. Therefore, I am not afraid of speaking to her about anything. This is the big advantage of the role of a mediator. (SU\_FC\_NGO\_07)*

#### **6.2.1.4.2 Provide a Platform for Expression and Thinking**

Differing from the court hearings in which divorcing couples have no chance to truly express their concerns, family mediators create a platform, either at an individual session or at a joint session, for the service users to tell their stories and release their pent up emotions. Moreover, the mediators were skillful enough to narrow down the disputing couples discrepancies and draw out their common concerns so that those concerns became the grounds for negotiation. The mediators would provide sufficient time for the parties to think the matter through thoroughly before making an agreement.

*It was not just that the three parties kept meeting with each other. Sometimes, there were individual sessions and I think that it was good. With the presence of these individual time slots, we are often able to express our own will freely. Furthermore, the mediator knew how to handle it and understood our ultimate will and attitudes. Thus, He knew how to deal with the arguments arising when the three parties discussed the issue together. The format was quite good and I am quite satisfied with the ways that the mediator adopted throughout the process. (SU\_FC\_NGO\_10)*

*Actually, it is very useful. I think the maximum effect is that the mediator will be very neutral when each side sticks to his own version. In addition, the mediator knows what is impractical and impossible to a certain extent. He will bring you the issues and let the other side think about it seriously again. It makes a real difference because those things are spoken by the mediator, not me. (SU\_FC\_NGO\_9)*

#### **6.2.1.4.3 Provide Information and Make Referrals**

For the service users, the basic legal knowledge imparted by the family mediators was pivotally necessary. Besides that, they greatly appreciated that some mediators would

made referrals to legal services whenever necessary. All these actions were perceived not only as tangible services, but also as the provision of psychological support for them.

*The mediator introduced it to me and said that there was a free consultation service. Then, he asked me if I knew about my own rights. He knew that I was not familiar with those things. In fact, I did not quite understand what my rights were. Thus, he introduced a consultation service offered by a lawyer to me. Then, the lawyer contacted me and understood my situation. He subsequently told me what rights I had. (SU\_FC\_NGO\_17)*

*I don't know what should be improved. I think it is very good already. It has the support of the lawyers and I participated in it too. Ms. X [the mediator] helped me apply to them too. I could seek legal opinions and meet the solicitors directly. Overall, it is very good already. (SU\_NFC\_NGO\_16)*

### **6.2.1.5 User's Comments on the Logistic of the Service**

Speaking overall, the service users were satisfied with the service, including the content and the outcomes. In particular, they highly appreciated the logistic arrangements of the service including the service coordination procedure, the waiting time, the financial support, and the supporting services for themselves and their children. Nonetheless, the current family mediation service still had room for improvement, which included 1) a lack of knowledge of the availability of the family mediation service and 2) a lack of legal obligation to abide by the agreement, and a lack of follow up after an agreement has been made.

#### **6.2.1.5.1 Positive Feedbacks**

##### **6.2.1.5.1.1 Coordination and Waiting Time: Efficient and Flexible**

The users were referred to the family mediation services by different sources, mainly by social workers, lawyers, and the staff of the FMCO. A few of them were self-referred. The users commented that the service coordination was good and the waiting

time between the consultation session and the first appointment was short and reasonable.

They also regarded that the meeting times and duration were satisfactory.

*Very fast! He [The staff of the FMCO] asked for my availability when I received the phone call. I was unemployed and it was more convenient for me to meet him in the daytime. In fact, the appointment was made quickly. I went there within a week. After I attended the talk, I found the duty officer directly. We looked for a mediation center that was near my living place and he answered me with the choices, i.e. the mediation service and the mediators, very quickly. The appointment was made quickly overall. (SU\_FC\_NGO\_12)*

*It did not take a long time. It was quite fast. Around eight to ten days only. The first appointment was made. At first, they were individual sessions in which the mediator met him [ex-husband] in the first week and then met me in the second week. Then, another appointment for a joint session was made. It's fast. (SU\_FC\_NGO\_09)*

However, for some popular mediators, the users needed to wait a bit longer for the appointment because these mediators often had a tight schedule. Some users suggested that it would save the coordination time if the court were to provide the service directly.

*The waiting time is quite long. It really depends on whether the mediator has the spare time to provide the service or not. The service can only be provided if they have the time. Those mediators do not belong to the court support team so they have their own work. I think it will be better if the court can provide financial support to the mediators. However, it is not the case in reality. Most of the service provided by the mediators are self-financed. Therefore, which mediators are willing to spend more time, other than in their working hours, to provide this additional mediation service here? It thinks only a few of them can do that. (SU\_NFC\_PC\_02)*

*If I have to make an appointment with Ms. X [a popular mediator], it will take quite long. It could be after two to three weeks. Sometimes, if there is a time clash with public holidays, it will be even longer, i.e. after a month. Nevertheless, I asked her if there was another colleague who was not as busy as she was. Then it would be faster and only takes around one to two weeks. However, the problem is that everyone has to work during the daytime. It will be very hard to make an appointment if it is after five o'clock. Therefore, I expected to take annual leave when I come here. I will try to make it in office hours. In that case, it might be easier to make an appointment. (SU\_NFC\_NGO\_03)*

### 6.2.1.5.1.2 Financial Support

One of the major reasons that divorcing couples chose family mediation was the financial consideration. Some of the users said explicitly that they might not use the service if its charges were as high as the legal service charges. The FC-sponsored cases unanimously appreciated the low or free charge for the service. Even though some of them had to pay for the service, the fee was reasonable and affordable. Overall, the financial subsidy was important for alleviating the financial burden of divorce.

*It depends on your income level. If you have a high income, I know that the charge is six hundred dollars per hour. Actually, the full charge, i.e. six hundred dollars, is low. If it is lawyers, they will charge you at least a thousand per hour. It is the cheapest. In fact, the fee is not too high. (SU\_FC\_NGO\_09)*

*It's alright. It is still affordable. If your income doesn't exceed certain levels, you can even apply for free service. However, I think it is reasonable because after all, they need the fees to operate, and they help you solve the problems. (SU\_FC\_NGO\_19)*

The non-subsidized cases were charged on a rate scale according to their monthly income. The hourly charge was around \$600 per hour for most of the cases. They considered the fee to be reasonable and affordable. However, they had concerns about the charge if they could not settle the disputes within several sessions.

*It accounted for 10% of my wage. Its hourly rate is....I remember I paid around six hundred dollars. I can't remember the number exactly as I am not very sensitive to it. It's around there and there is a rate scale according to your monthly income. You only use the service if you know how much it charges you. Therefore, no one can really say whether it is reasonable because some may be charged more whereas some may be charged less. In my opinion, I think it is necessary and reasonable if you want to buy a professional service which involves the participation of professional staff. (SU\_NFC\_NGO\_04)*

*They take your monthly income into account. Each applicant has an income range and the time spent in the sessions will then be calculated. They will charge you per hour... It is acceptable because I seldom use the service. If both sides cannot reach a consensus and the sessions have to be extended, the charge will tend to be expensive. Fortunately, I seldom use the service. (SU\_NFC\_NGO\_14)*

#### 6.2.1.5.1.3 Supporting Services for Divorcing/Divorced Parents and Their Children

The service users also appreciated the supporting services such as the counseling service or therapeutic groups for divorced parents or their children suggested by the mediator or provided by the organization to which the mediator belongs. Most of the services were free of charge. The users felt the supportive services were useful as they could get support from other divorcees and thus had a better post-divorce adjustment. Some of them learned how to co-parent with their ex-spouse through these services. Moreover, they made positive comments that the services for their children were helpful for the adjustment of their children after the parental divorce.

*Initially, when we went to the mediation centre, we even participated some of their programs. Those helped us relieve stress. I participated in a program which was about interpersonal communication. It was helpful. The course was about how to communicate with your children. (SU\_NFC\_NGO\_06)*

*Everything has just been settled and there is a service nearby. It is for children, like play therapy. It helped us review the parent-child relationship and our respective roles. The child might not have been involved in the mediation. He was only three and a half years old at that time. However, there were some services in the center which took care of his conditions e.g. his psychological condition. Because he was very young, we did not ask for too many details. (SU\_NFC\_NGO\_14)*

#### **6.2.1.5.2 Areas of Improvement**

##### 6.2.1.5.2.1 Promotion

Before receiving the service, many service users had a limited understanding and knowledge about the service with regard to its availability, accessibility and content. Therefore, they suggested that it was necessary to increase the promotional work done by

the government so as to educate the public on the functions of family mediation and the benefits to divorcing couples.

*There are only a few promotions for the mediation service. I believe that the first thing that people who think of filing for a divorce will do is find a lawyer. In my view, promotion of the service is really inadequate. If you want a divorce, someone will claim that he will recommend a lawyer to you. I have never heard that someone will recommend a mediator in the same way. (SU\_NFC\_NGO\_14)*

*I don't really know that there is such a place [a mediation center]. Perhaps the government should do more promotions. "Hi. We have this service and do you need our help? I welcome you to find us for help." In fact, this service should be widely promoted. Thus, people can realize that these services are available to the community. Otherwise, if you ask a random couple on the street whether they know about the divorce procedure clearly, their answer will most likely be law firms or paying a few thousand dollars to find a lawyer like Paul Tse, etc. I doubt that people will realize mediation centers can help those who need to deal with divorce related issues. The information has not been very widespread so far. (SU\_NFC\_NGO\_06)*

#### 6.2.1.5.2.2 Compliance

Most of the service users had just finished the mediation, and thus most of them had not yet encountered the problem of non-compliance with the agreement. However, some of them had foreseen a potential difficulty with getting the other party to comply with the agreement because of the continuing deconstructive communication between the two parties after the divorce. Some service users also mentioned worries about the financial situation of the other party which might lead to a risk of non-compliance on alimony (both for the ex-spouse and the children), children's living and visitation arrangements. In these circumstances, they had nobody to turn to because the mediation case had already finished. They suggested that family mediators should follow up for a period of time to ensure the sustainability of the agreement.

*Actually, the contract has been made but we don't exactly know how to execute and review it. The next paragraph is missing. The terms are written but a period of time is*

*required to execute them. It will be quite hard to execute because both sides cannot talk with each other. I don't know if there would be a chance to review them. "Do you think in this way? If there are some obstacles, are there any ways to overcome them? "If the follow-up can be made like this, it will be better. (SU\_FC\_NGO\_18)*

*Yes, it was alright after the discussion. We have signed the letter of commitment and we knew who had the visitation rights. Now my daughter is twelve years old. She cannot be considered to be a grown up until she is eighteen, so I still have the right to get what I want. The other side has to commit to his visitation order. However, over so many years, will he really follow the tasks that have been written on the letter of commitment for a long period of time? I really doubt that. In this respect, I trust the order given by the officer. Strictly speaking, the things that he spoke are absolute. You will commit a crime if you are not committed to follow the order. I am not sure whether it can be regarded as a criminal case though. (SU\_FC\_NGO\_03)*

#### **6.2.1.6 Overall Summary**

The findings revealed that the informants' general level of satisfaction with the service was high. It not only resolved their disputes in a cost-effective and efficient way, but also relieved their psychological distress pertaining to the divorce. They also greatly appreciated the mediators as they were knowledgeable in mediation, cared about their emotional needs and provided ample autonomy for them to make decisions. Apart from the benefit to themselves, the service users perceived that family mediation had a positive influence the relationships with their ex-spouse, children and extended family members.

With regard to the service coordination, the service users had been satisfied with the arrangement of the meetings. They described the procedures as efficient and the time for the meetings as being flexible enough to match their schedules, especially as they could meet with the mediators after working hours. In addition, many service users were content with the financial subsidy for alleviating their financial burden. Those informants who had to pay for the service regarded the fee of the NGOs to be reasonable and affordable as long as an agreement was reached within a short period of time. They were

also pleased about the support services provided by the NGOs, in particular, the children services.

One of the major concerns of the informants about the service was the lack of popularity of the service. Hence, they suggested enhancing the promotional work and enriching the public's understanding of its function, availability and accessibility. Some informants also regarded that there should be some measures to ensure compliance with the agreement and the sustainability of the agreement in order to minimize the chance of its being violated.

## 6.2.2 VIEWS OF CHILDREN

### 6.2.2.1 Informants Profiles

Ten children were recruited for the study (Table 6.3). Their parents were either FC-sponsored cases (n = 5) or non-sponsored cases (n = 5). The children of the FC-sponsored cases included 4 girls and 1 boy. Over half of them (n = 3) were aged from 6 to 10 and the rest (n = 2) were 11 to 15 years old. The majority of the children (n = 4) were studying in primary schools. Four of them had siblings and the other one was an only child. From the non-sponsored cases, there were 2 boys and 3 girls. Among them, over half (n = 3) were adolescents aged from 11 to 20 and the rest (n = 2) were 6 to 10 years old. Their educational attainment levels were primary (n = 2), secondary (n = 2) and university (n = 1). One child had no sibling and the other 4 children had 1 sibling and 2 siblings respectively.

**Table 6. 3 Profiles of the Children**

		<b>FC(n=5)</b>	<b>Non-FC(n=5)</b>
<b>Sex</b>	Male	1	2
	Female	4	3
<b>Age</b>	6-10	3	2
	11-15	2	1
	16-20	0	2
<b>Education</b>	Primary school	4	2
	High school	1	2
	University or above	0	1
<b>No. of Siblings</b>	0	1	2
	1	4	2
	2	0	1
<b>Birth Order</b>	Only Child	1	2
	Eldest	2	1
	Middle	0	1
	Youngest	2	1

Getting the consent of the parents for their children to be interviewed was far from easy. These children's parents gave their consent for us to interview their children only because they had a trustful relationship with the referring agency. They perceived that their children benefitted from the service or the support services rendered by the agency. During the in-depth interviews, these children reflected on their experiences with the divorce process of their parents, especially their feelings about their parents' divorce. In addition, they shared their understanding of family mediation, and the impact of mediation on the family relationship.

### **6.2.2.2 Feelings about their Parent's Divorce**

#### ***6.2.2.2.1 Disturbed, Sad and Helpless***

These children were very sensitive to the changes in family dynamics during the divorce process. They shared with the interviewees that they were very disturbed by the frequent conflicts between their parents. Some of them have played the role of mediator or messenger between their parents for years. When they knew that their parents were filing for divorce, they had mixed feelings. On one hand, they had already witnessed the deterioration in the relationship of their parents and so they did not feel surprised at the divorce. On the other hand, they felt loss, and sad, as they didn't want it to happen. Many children were also brought into a triangular relationship with their parents. For instance, some of them became the comforter of their parents and tried not to upset them, while other children would try various ways to resolve their parents' conflict, but in vain.

*Five years ago, I suddenly found that my father's personality had changed. In fact, the change was piling up for quite a while. About a year ago, my mother requested a divorce. Therefore, things had already been deteriorating for four or five years. My mother hinted to me that she couldn't tolerate the situation and might file for a divorce. I was quite*

*prepared for it psychologically. When she told my father she wanted a divorce, I was not surprised at all. I wanted to persuade them not to divorce, that they could tell each other what they really need instead. However, I failed and it comes to what we are in right now. (CH\_NFC\_NGO\_03)*

*[Interviewer: When did you start to learn of your parents getting a divorce?] They had been talking about it since seven years ago. They quarreled and talked about divorce all the time. They would say it's ok to get a divorce. However, in the end, they would say they don't want me to lose a mother or a father because I'm still so young. (CH\_NFC\_NGO\_04)*

*[My parents' relationship] is not good. They quarrel all the time. My sister and I have to stop them all the time. I'm responsible for stopping my father from scolding my mother, and my elder sister is responsible for stopping my mother from scolding my father. If they quarrel when we are at school, like during lunchtime, my sister will leave her school earlier and be there at noon. (CH\_FC\_NGO\_07)*

#### **6.2.2.2 Spilt Loyalty**

Some children have lived with one parent and visited the other party regularly. Although they are content with such an arrangement because they could contact their parents regularly, some children might be disturbed by the situation as some parents keep on complaining about the other party. Besides that, some children were placed in a position of spilt loyal when their parents requested t they confide in them about their ex-spouse's situation. Some children tried not to upset their parents by pleasing each one and they dare not express their genuine feelings to their family members.

*[Interviewers: Do you think your parents are happy with the arrangement?] I'm happy, because I could be with my father and also with my mother. (CH\_FC\_NGO\_05)*

*My father asked me what my mother had told me. I said nothing. Then my father would ask how I am doing in school. I said my scores were fine. My mother told me bad things about my father but I wouldn't tell my father. Conversely, I wouldn't tell my mother either. (CH\_NFC\_NGO\_01)*

*Initially, the family was alright and there wasn't much pressure emotionally. It had been more than two years but my mother kept telling me how bad my father was. I do not know what (my mother) wants now. She always tells me bad things about my father... I feel very annoyed because she talked about those things more than twenty times a day. Also, when I show dissatisfaction, she felt that I am at my father's side. So I have to agree with her*

*point of view. It has resulted in leading her to complain even more. She is very insecure and keeps on asking me if I will abandon her sooner or later. I feel very disturbed by it. (CH\_NFC\_NGO\_02)*

*My mother has asked him (my brother) who he was going to live with when they divorce. He said that he would live with my mother when he was asked by my mother, but live with his father when he was asked by his parental grandmother. I remembered clearly that he gave credit to my mother when she cooked a meal for him and praised my grandmother when she prepared a dinner for him. Actually, I don't know what he really wants. (CH\_FC\_NGO\_03)*

### **6.2.2.3 Understanding Family Mediation**

Most of the children did not know much about family mediation nor were they involved in the mediation process. Their ideas about family mediation were mainly given to them by their parents. They perceived that it was good that there was a person who could help their parents to resolve their difficulties. Some children found that their parents could communicate in a better way after the mediation. Nevertheless, some of them expected that the mediators would help their parents to repair their marital relationship. There were two children who attended some mediation meetings and their experiences were quite different. One child said that the mediator was caring and patient, and the mediator explained the mediation process in great detail. This child felt relaxed when attending the meetings. Another child's experience was relatively negative because the mediator asked her to state her living arrangement preference in front of her parents. She felt it was difficult to cope with the situation when she witnessed her parents signing the separation agreement.

*[Interviewer: Is family mediation good?] At least they are not allowed to argue with each other loudly. You know, their emotions escalate when they argue with one another. Yes, that's how my mother behaves. She'll gradually shout louder even though other people haven't finished their conversations. Then they (my mother and my father) will stand up and shout at each other loudly. Indeed, it is better to discuss the issue in the presence of a third party. Otherwise, they will shout louder and louder. (CH\_FC\_NGO\_03)*

*During the first [individual] session, I met her [the mediator]. , I felt that she was very patient. Also, it seemed that she was quite objective in handling my parents' arguments. Frankly speaking, some social workers were quite biased. ....Before I met her, I tried not to disclose my genuine feelings to others even though I felt very unhappy about the divorce. However, after I talked with her, I felt more comfortable. Finally, there was someone who really listened to and understood me. (CH\_NFC\_NGO\_03)*

*Let me talk about what happened on that day. Actually, I had been sick. I fell asleep during the meeting as the process was too long and boring. My feeling was that I was uncomfortable and wanted to escape from the meeting. That was because I attended the meeting and listened to my parents talking about the issues throughout the session. I felt quite uncomfortable after all that. I wanted to escape as I did not want to listen to some of the conversations. (CH\_NHBA\_NGO\_03)*

#### **6.2.2.4 Overall Summary**

The children's narrations show that they have been involved in the conflictual relationship of their parents for years. They felt disturbed, sad and helpless in the situation. Some children were faced with a spilt loyalty issue as well. As a result, many children were unable to express their genuine feelings towards their family members. To a certain extent, family mediators, who played the role of a third party, could alleviate the children's stress. The children felt that family mediators could help their parents to resolve the issues in a peaceful way. The experiences of those who were involved in the mediation process varied. The findings show that family mediators should plan well, be careful and use caution when they involved children in the mediation process in order to avoid causing unnecessary harm to the children.

## **6.2.3 VIEWS OF FAMILY MEDIATORS/ SUPERVISORS**

### **6.2.3.1 Informants Profiles**

Table 6.4 shows that we have interviewed 29 family mediators and supervisors, including 12 mediators and 17 supervisors. There was a total of 10 males and 19 females. Around one third (n = 9) of the informants have been accredited for over 11 years. As for the backgrounds of these informants, most of them were social workers (n = 18), followed by lawyers (n = 10) and a counsellor (n = 1). Caseloads were varied among the informants, with one third of them (n = 20) handling fewer than 20 cases in the last 12 months. For the supervisors, most of them (n = 13) supervised 1 to 5 cases in the last 12 months.

When the informant profiles of the FC-sponsored group were compared with the non-sponsored group, we identified that the two groups were similar in terms of the gender distribution and the number of years accredited, as well as the numbers of cases handled by the mediators in the last 12 months. However, the supervisors of the FC-sponsored group had more experience in direct practice and in supervision when compared with the non-sponsored group. When comparing the number of cases handled by the two groups, it was found that the family mediators and supervisors of FC-sponsored group handled from 21 to over 50 cases, which was more than those handled by the non-sponsored group (7 versus 1). In addition, all the supervisors of the FC-sponsored group had supervised cases in the last 12 months, but 2 supervisors of the non-sponsored group had not provided any supervision in the last 12 months.

**Table 6. 4 Profiles of the Family Mediators and Supervisors**

		FC(n=12)		Non-FC(n=17)	
		Mediators (n=3)	Supervisors (n=9)	Mediators (n=9)	Supervisors (n=8)
<b>Sex</b>	Male	1	2	4	3
	Female	2	7	5	5
<b>No. of Years (Accredited)</b>	1-5	2	1	7	1
	6-10	0	4	2	3
	11-15	1	2	0	3
	16-20	0	2	0	1
<b>No. of Cases Handled (in the last 12 months)</b>	1-5	2	0	5	2
	6-10	0	1	2	2
	11-20	1	0	2	3
	21-30	0	2	0	1
	31-40	0	0	0	0
	41-50	0	4	0	0
	>50	0	2	0	0
<b>No. of cases supervised (in last the 12 months)</b>	0	NA	0	NA	2
	1-5	NA	8	NA	5
	6-10	NA	1	NA	1
<b>No. of mediation sessions<sup>99</sup> conducted each month</b>	1-5	2	1	5	6
	6-10	1	1	4	1
	11-20	0	5	0	1
	21-30	0	2	0	0
<b>No. of supervision sessions conducted<sup>100</sup> for each month</b>	0	NA	0	NA	2
	1-5	NA	8	NA	5
	6-10	NA	1	NA	1
<b>Organization</b>	HKCMAC	2	4	0	0
	HKFWS	0	5	0	1
	YMMSS	1	0	0	0
	Caritas	0	0	2	2
	ISSHKB	0	0	1	0
	St. JS	0	0	1	0
	HKMAAL	0	0	1	1
	Law Firm	0	0	4	4

The interviews with these family mediators and supervisors were fruitful and insightful for us. They helped us to understand the usefulness of mediation and the

<sup>99</sup> Three hours for one session.

<sup>100</sup> Three hours for one session.

obstacles that hinder the process of attaining an agreement. Also, they have pointed out the impacts of family mediation on the service users and their children. Their comments on the financial subsidy model, service coordination and service nature provide some meaningful suggestions for improving our service.

### **6.2.3.2 The Factors that Influence the Mediation Process**

The interviews with the family mediators and supervisors provided a rich insight into the factors that influence the process and the results of the service. The factors could be categorized into three clusters: the user-relevant factors, the qualities of the mediators and the court relevant factors.

#### ***6.2.3.2.1 The User Relevant Factors***

From their experience, the informants could sense the level of difficulty being experienced by the two parties as they try to reach an agreement through mediation when the informants assess the following aspects of the divorcing couple, including 1) the quality of their current relationship; 2) their readiness for divorce and mediation; 3) their knowledge and expectations of family mediation; and 4) their degree of autonomy in decision making.

##### **6.2.3.2.1.1 The Quality of their Current Relationship**

Almost all the mediators commented that the psychological conditions of the two parties and the quality of their relationship were the major factors that influence the progress and result of the mediation. It was normal for the two parties to have very negative emotions themselves and towards each other when they decide to file for divorce. As the divorcing couples were occupied by rage and hatred, the communication between

them was deconstructive and added further harm to an already disrupted relationship. The mediators found that in the cases referred to them by the court after several court hearings, it was often more difficult for the parties to put aside their negative emotions and achieve an agreement that was satisfactory to both sides.

*When they are in the stage of denial or anger, they frequently have no intention of resolving the disputes. Instead, they will sort out who is right and who is wrong. They will try all of their methods to continue a negative interaction... If they are not aware of the root of the marital relationship problem, they will keep on using the same pattern to interact in mediation. (FS\_NFC\_PC\_02)*

*If both sides agree to divorce, they may think that they are ready to face the litigation process....During the litigation proceedings, however, there are always many accusations made towards each other that further escalate their conflicts. [If they seek family mediation in this stage], it will be quite difficult to deal with their disputes because they have a strong hatred for each other, which results in their taking an oppositional stance in the mediation. (FS\_FC\_NGO\_02)*

Sometimes, the intense negative emotions exploded during the mediation process and jeopardized an agreement already achieved.

*Feasible communication between the two parties means that they can respect each other and talk about the issue calmly. It can greatly help the process as they won't have many emotional outbursts during the mediation process. These negative emotions might cause the agreement to vanish. Therefore, both of them have to have a clear mind and stay calm during the negotiation process. These are the key factors for the success of mediation. (FS\_FC\_NGO\_03)*

The negative emotions also blinded the users to seeing alternatives. They were occupied by the anger as well as paranoid ideas about the post-divorce arrangements, such as the financial issues, the housing issue, child relevant arrangements and so on. With just one option in mind, the users often fought furiously against each other and could not see other alternatives.

*If the couples do not have accumulated anger, are able to deal with the relationship rationally, and can be flexible when dealing with disputes such as the living arrangements for their children, then there is a higher possibility for the success of the mediation. (FM\_FC\_NGO\_02)*

Basic trust and respect towards each other were important parameters of the quality of their relationship. If the two parties still had some basic trust and respect for each other and could still recognize the contributions to the family of the partner over past years, it was easier for the mediator to facilitate their communication and to help them to explore alternative arrangements.

*If the level of trust between the two sides is high, they will not attribute all the faults to the other party. On the contrary, if they don't trust each other and think that the other side is concealing facts from the mediator, such a condition is relatively difficult to handle. However, if they communicate with each other and talk about the issue in private, we know that the case will be easier to handle because they still want to communicate with each other. If they have never talked about the issue, or you know that they have a rigid attitude on some issues, the case will be hard to deal with. (FM\_FC\_NGO\_02)*

#### 6.2.3.2.1.2 The Users' Motivation for Divorce and Readiness to Engage in Mediation

The psychological status and the current relationship between the two parties also imply the two parties' state of readiness and motivation for having mediation. If the two parties were not at the same place in filing the divorce, and one party was abandoned and pushed by the other one to have a divorce, it was usually impossible to reach an agreement. The mediators needed to explore and facilitate the negotiation until both parties were psychologically prepared for divorce; otherwise, it was not the right time to conduct the mediation.

*If only one party files for divorce, the separating couples have to wait two years before the completion of a divorce proceeding. During this period, one party may want to repair the marital relationship. In this case, the couples are less likely to be mediated. As a mediator, we are considerate and do not want to force couples to divorce. They must participate in the mediation voluntarily. The readiness of the couples is significant. Apparently, mediation is always unsuccessful under such circumstance. That is why I have some mediation cases in which no agreement was reached. (FM\_FC\_NGO\_02)*

*Perhaps one party doesn't want to divorce. For instance, if one party has an extra-marital affair, the other side will feel hurt and suffers a lot in the marital relationship. She / He may not want to divorce in order to prevent the other party from re-marrying after the*

*divorce. We have such cases and these clients are not ready for mediation. (FS\_NFC\_NGO\_01)*

Whether the mediation was initiated by the users or was requested by the court also had big influence on the progress of the mediation. Those required by the court to have family mediation often had a “just give it a try” mind-set and did it to fulfill the court requirement. They might not participate and make use of the sessions as actively as others who have initiated the mediation by themselves. Those who sought and initiated the mediation actively themselves had more faith in the function of mediation and were more ready for rational communication. They chose family mediation for some purpose (e.g. saving money and time, avoiding the harsh court procedures, making a better arrangement for their children) and thus their motivation for settling the issue through negotiation was stronger, which made the process smoother.

*I have had a case in which the court asked them to use the mediation service. During a pre-mediation meeting, one client told me clearly that he had been advised by the judge and a lawyer to use the service. With that “give it a try” attitude, the case was less likely to be successful. (FM\_NFC\_NGO\_02)*

*If they have no motivation to deal with the disputes through litigation, they will seek mediation. If they think that negotiation is better than spending money on litigation, they will have a higher level of motivation. Thus, it is all about their own motivation and concerns. (FM\_FC\_NGO\_02)*

The mediators pointed out that if the dispute between the divorcing couple was mainly about the children, it was often easier to facilitate a full agreement between the two parties. This was because they had a stronger motivation to settle the issue due to their common concern and care about the children’s best interests. Both parties were more motivated to sacrifice something for the sake of their children.

*We prefer not to handle financial disputes between divorcing couples because there is always a large discrepancy in the financial matters. It will be easier to handle mediation cases that involve children's welfare. The clients are more willing to discuss child-related issues because most of them love and are concerned about their children. Even though they hate each other or they argue a lot over many matters, they are willing to discuss children's issues for the sake of their children's welfare and interests. Sometimes, we can draw on this common ground in these matters as long as the clients genuinely care about their children. (FM\_FC\_NGO\_01)*

#### 6.2.3.2.1.3 The Users' Knowledge and Expectations of Family Mediation

The users' legal knowledge and their expectations of family mediation also had a great influence on the process and the result of the mediation. Users with limited knowledge about the legal procedure of divorce and their legal rights and responsibilities often had an unrealistic perception and expectation of what they could get from the divorce. Some users even misunderstood the purpose of the mediator as being to help him/her strive for his or her benefits. In this situation, the mediators need to take much effort to educate them about the role of a mediator or refer them to legal professionals to enrich their legal knowledge and to draw them into rational communication.

*The success of mediation very much depends on whether or not the client has a realistic picture of what he wants to get from the partner. His unrealistic expectations may be formed by incorrect legal knowledge acquired from the mass media. If he has some misconceptions about his legal rights, his requests will be very unrealistic. He will insist on his standpoint, resulting in intensifying the conflict with his ex-spouse during mediation. It is hard for mediation to be successful. (FS\_FC\_NGO\_02)*

*Mediators are not supposed to provide their clients with legal knowledge. It really makes me feel embarrassed because I think some clients really need to acquire some legal knowledge in order to have a realistic picture of their requests. I will recommend they seek help from legal professionals. If they are unable to pay the legal fee, I will suggest they use the legal aid services. However, some clients are not eligible for the service. In this case, it really makes me feel it is difficult to continue the mediation. But I have come across some clients who were more willing to mediate with their ex-partners when they realized that the fee for hiring a lawyer was unaffordable. (FM\_NFC\_NGO\_01)*

#### 6.2.3.2.1.4 The Users' Autonomy in Decision Making

Embedded in the traditional Chinese idea that marriage goes beyond the two individuals to include two big families, divorce involves not only the separation of the two individuals but also a series of “social divorces”. The relatives and friends and especially the important others in the extended family were often involved in the divorce process and influenced the decision making of the clients. The divorcing couple usually received various opinions voiced from various sources. Whether or not the two parties have full autonomy in the process of mediation and the extent to which they can make decisions on their own were crucial for the success of the negotiation. The mediators found it quite frustrating when the clients rejected the agreement at the last minute because his/her parents disagreed with the arrangement.

*Another factor that influences the success of mediation is whether or not the clients are able to make their decisions on their own. When we come to make an agreement, they will hesitate and then seek advice from their family members. When their family members agree with it, the clients will sign the agreement. (FS\_FC\_NGO\_09)*

*Actually, they [the clients' family members] often have their own points of view on the divorce. They have their biases about the behaviour of the client's ex-spouse. For example, some of them criticize the ex-spouse for being greedy with money. However, if the clients really reach an agreement and then they comply with the agreement after divorce, it will stop the negative comments of the other family members. (FS\_NFC\_NGO\_03)*

#### **6.2.3.2.2 The Qualities of Mediators**

To work with clients in different degrees of readiness, motivation, knowledge and expectations of family mediation and outside influences, the mediators should be able to care and facilitate constructive communication between the conflictual couples to express their needs, to explore the options and to reach an agreement with the least harm done to both sides and especially the children. As reflected by the informants, the following

professional attitudes and strategies were required for them to facilitate agreement between the two parties.

#### 6.2.3.2.2.1 Able to Respond to the Users' Emotional Needs and Concerns

As mentioned above, the divorcing couples often had strong negative emotions towards each other and had been using deconstructive communication patterns for long periods. It was hard to draw them into rational communication without the negative emotions being released. The mediators should be able to respond to the users' emotional needs and address their concerns with a caring attitude. For the users who were stuck in rage and hatred, it was useful to allow them to express their emotions freely in the session. It was a challenge yet a necessity for the mediators to stay with the users' intense emotions, allow time for their catharsis, calm them down and then tune the conversation to a peaceful track.

*It depends on whether the mediators are skilful enough to calm down the clients before they talk to their ex-spouse, so that they can talk peacefully and rationally. On some occasions, the clients refuse to continue the mediation because they refuse to communicate with their ex-partners anymore. It is really a big challenge for the mediators, whether or not they can draw the clients into becoming involved and thus reach an ultimate agreement. (FM\_FC\_NGO\_02)*

#### 6.2.3.2.2.2 Underlying Meaning and Yearning

The mediators should be able to find out the underlying meaning and yearning of the complaints and rage and then facilitate a direct dialogue of the divorcing couples in the mediation sessions.

*When the mediation process becomes stuck on some points, e.g., one party has a serious argument with the ex-partner and does not give in at all; I will separate them and interview them individually. I will ask each one to express his / her concerns and worries and to explore the barriers to negotiation. I will listen to their needs attentively and patiently and encourage them to express their concerns in a joint session. I encourage*

*them to do so and see if the other party is able to respond to it. I won't act as a middle man and pass messages between them. Instead, I will let them share their standpoints in a joint meeting. (FM\_NFC\_NGO\_03)*

#### 6.2.3.2.2.3 Past Contributions to Family and Children

For the divorcing couples with children, the most useful method was to highlight their love towards the child as common ground. Most users would set the interests of the children as their top priority in negotiating the divorce arrangements. The mediators could educate the users regarding the importance of a peaceful process of divorce and a continuing good relationship between both parents for the sake of their children's development and well-being. It was usually much easier for the users to put aside their negative emotions for the interests of their children.

*We also care about the parental responsibility of divorcing couples. Whether they were married for 1 year or 10 years, I will recognize what they have given to their children, and recognize their love for their kids. Although they have to divorce, it doesn't mean that what they have done in the past years for their children and their family has vanished. (FS\_FC\_NGO\_07)*

*We often need to do some educational work. We want to let them realize that many children hope to see their parents relating to each other peacefully. Although they are no longer spouses, they are their children's parents forever. Indeed, parental conflict is a kind of punishment for their children. For instance, if a divorcing couple cannot compromise on the child's maintenance fee, it affects the child's quality of life. If they are unwilling to make a concession to one another, I will ask them to think thoroughly not only about their own interests but also about the benefits to their children. (FM\_NFC\_NGO\_03)*

*Many parents acknowledge the common grounds that they wish that their children can grow healthily and live happily. They have the wrong concept that if they can get the custody of the children, they can possess their children. Of course, that is totally wrong. We have to let them realize the fact that they are their children's parents forever, but they do not possess the children. Indeed, Chinese people put a high value on the blood ties of family members. This message is particularly important for the father-child relationship because it is not common for a father to get child custody. Can the law destroy such a relationship? Definitely not. In fact, there is a recent trend toward an increasing number of joint custody cases that allow the divorcing couples to make decisions on children's issues jointly. (FS\_FC\_NGO\_02)*

#### 6.2.3.2.2.4 Structure the Meetings and Coach the Clients' Negotiation

To facilitate meaningful communication between two people who have been using negative communication patterns such as quarrels and fights, the mediators need to set ground rules for the meetings and structure the communication to be constructive. For example, the users need to take turns to talk, listen when the other party talks, communicate through the mediator when the atmosphere gets too intense, and not verbally or physically attack each other. The mediators would stop them if they violate the rules. Some micro skills were also adopted by the mediators in order to help the users comply with the rules.

*We had some rules during our discussion. For instance, we request both parties to keep calm, not to talk in an offensive manner and to take turns when speaking, etc. We provide some blank paper to them and ask them to jot down notes or questions so as not to interrupt another party's conversation or miss any important points. Each side has equal opportunity to share their views and opinions. If one party violates the rules, e.g., he / she shouts loudly or insults the other using bad language, we stop the mediation session immediately. (FS\_FC\_NGO\_02)*

*Of course, we can't control the manner of the clients if they are really in a rage; however, we have to set rules and regulations for the mediation meeting. For example, there will be no attacks, and no provocative wording etc. If the situation is really out of control, we stop the meeting until they agree to comply with the rules once again. We have to keep everything under control and try not to delegate power to the clients. (FS\_FC\_NGO\_07)*

The structure of the meeting not only aims at getting a smooth mediation process but also at encouraging the divorcing couples to use a new way to relate to one another. In many cases, the mediators gradually encouraged and coached the two parties to negotiate with each other and resolve the conflicts with a new method. The users could use the mediation experience as an opportunity to learn of new conflict resolution methods with positive effects.

*If the clients are ready to learn some conflict resolution skills, we shall coach such skills in the mediation sessions. With the support of the mediators, they learn an alternative way of resolving conflict. Hopefully, they will acquire such skills and apply them in the future. (FS\_FC\_NGO\_08)*

*They learn a new negotiation method through mediation, which I believe is very significant to them. Most divorcing couples have stopped communicating long before they meet in the mediation meeting. They are talking in a very mechanical way, i.e. to present their ideas. They do not know how to negotiate. We coach them in how to express their views and disagreements appropriately and accurately, rather than just ignoring the other's point of view. We tell them to think before answering. Indeed, it is an education process. (FS\_FC\_NGO\_01)*

#### 6.2.3.2.2.5 Objective Analysis and Exploration of the Options

The two parties who were occupied by negative emotions were often blind to alternatives that would allow them to perceive the current situation rationally. The objective analysis provided by the mediators often helped them to have a new perspective and understanding of the situation. The mediators also helped the users to explore and to test the possibility of different options, so as to expand their vision and instill hope.

*Sometimes, we help them to make an objective assessment of what they want to get so that their requests are relatively realistic. They may want 90% share of the property, but it may be impossible. We shall encourage them to seek the opinion of their lawyers if they have hired a lawyer. Very often, the lawyers will tell them that it is unrealistic. After they realize that, they become more pragmatic. It is a process of testing what is realistic. (FM\_FC\_NGO\_02)*

*In child-related disputes, I have to explore many issues with the clients, such as who is the best caregiver for the child, why do you think that you are the best to care for the children etc. I will explore their concerns or worries. For example, if he worries about the visitation arrangements, I will speak frankly to the other party that even if the child lives with the mother, the father has visitation rights as well. (FM\_FC\_NGO\_01)*

#### 6.2.3.2.2.6 The Mediator's Neutrality

The working relationship of trust between the mediator and the separating couples was the prerequisite for a smooth and a successful mediation. To build a trustful relationship, mediators should be equipped with relevant professional knowledge, skills

and attitudes. From the mediator's perspective, the clients' trust in the mediators helped the clients perceive they had support from the mediators, to give them a sense of hope and to put them more at ease.

*It's all about trust, I mean whether the clients trust you. If they have dispute over a flat, we have to understand that what they really want is more than the flat itself. They need a sense of security to ensure that they can move on after the divorce... I really give credit to my mediation supervisor who is neutral, impartial and open-minded. She helps the clients to analysis the situation from different perspectives that widen the views of the clients. The clients also regard that she helps them wholeheartedly. (FM\_NFC\_PC\_06)*

*It is about the rapport with clients. If we have a good relationship, they will listen to our advice, particularly at some critical moments. We have trust and so they regard our opinions are being reasonable. That is why I think rapport is critically important... We are able to move in the same direction in the mediation if we have trust. For instance, when we talk about a child's arrangements, we have a consensus that the child's well-being should always be the primary concern. In this way, the outcome is likely to be positive. (FS\_FC\_NGO\_06)*

Though it was necessary to build up a rapport with the service users, it was always a challenge for mediators to keep the relationships with the two opposing parties balanced. To keep neutral, impartial and calm in a process fraught with intense emotions was a challenge for every mediator, while at the same time, it is a key to successful mediation. As pointed out by many service users, they consider the mediator – a neutral third party - to be the very reason they sought the mediation service instead of having mediation by some acquaintance, though most users drew the mediators to side with him / her consciously or unconsciously. The mediators should be quite sensitive to their role in the mediation and to the power struggle between the two parties, so that the parties were both protected and free to speak.

*Our task is always to be neutral and calm in mediation. (FM\_FC\_NGO\_03)*

*Sometimes, we have to get a balance of power between both parties especially when there is an apparent imbalance of power between male and female parties. For instance, some*

*female parties feel insecure and we have to provide a safe environment for them. We have to encourage them to speak their needs and concerns in a joint session. Of course, I will not teach them how to say things but I will help them to organize their points and express them clearly. (FM\_NFC\_PC\_02)*

In face with the tension of being emotional responsive and being objective in facilitating the negotiation, the mediators should keep reminding themselves of the neutrality quality, avoiding taking side with either party or being triangulated by them as a messenger.

*You need to be very careful every time because you don't want to be drawn into their conflict such as playing the role of a messenger between them. It is particularly easy for us to play this role when we have to do individual work for one party. So we avoid doing individual work during our training because we still lack experience at that time. Mediation will fail if we take the side of one party. (FM\_NFC\_NGO\_01)*

#### **6.2.3.2.3 The Influence of the Court and the Solicitor**

Because of the legal relevance of a divorce and the agreement achieved through family mediation, the factors that influence the process and outcome of mediation include not only the user-relevant characteristics and the qualities of mediators, but also the factors related to the court and the solicitor. As observed by the informants, the users' knowledge of the legal procedure of divorce and their legal rights and obligations after the divorce influenced the progress of mediation. The users usually had more realistic requests and more realistic expectations regarding divorce and mediation if they have been briefed well in basic legal knowledge by a legal professional. Sometimes, the mediators could use the presence of the solicitors to educate the two parties of the realities of the situation when necessary.

*The clients really need some basic legal knowledge through the support of a good lawyer. The clients who lack legal knowledge are very confused about the situation and they have many misconceptions on how to proceed with the divorce and settle disputes. For example, some clients said that they want to petition for child custody. Actually, they are talking*

*about child visitation. If they have already acquired relevant legal knowledge, they will have realistic goals for mediation. (FS\_NFC\_PC\_02)*

However, the influence of a solicitor was not always positive. Sometimes the presence of the solicitor may make the situation more complicated and the atmosphere tense because of the unbalanced power structure or the firm stand of one party. In this case, the mediators should identify the advantages and the disadvantages of the presence of solicitors and make appropriate use of them.

*When clients think that they have a high chance to win the litigation, as always told by their lawyers, they won't seek mediation. Even though some of them still use mediation, they just want to have an option to maximize their benefits. Indeed, they do not hope to make a compromise with their ex-spouses. (FS\_FC\_NGO\_04)*

*Some clients initially hoped that they could be accompanied by a lawyer as they would feel more secure. Of course, there are pros and cons for the presence of a lawyer in mediation. From my experience, there are more disadvantages than advantages. It is because family mediation is not only for the settlement of tasks but also an opportunity to restructure a family system e.g., to set a good basis for co-parenting and repairing some of the dysfunctional communication patterns of the divorcing couples...There will be some hindrance if a lawyer attends the meeting as the client will be relatively task-oriented. If the focus of the meeting is on the tasks, the client may be more aggressive towards protecting his personal benefits, which results in further worsening the family relationship. (FS\_FC\_NGO\_02).*

### **6.2.3.3 Impacts**

#### **6.2.3.3.1 To Users**

The mediators witnessed that mediation has multiple positive influences on the users. They found that the users benefit in both their personal lives and family relationships. The users were relieved after the mediation and moved on sooner, and the couples were able to get a better relationship with each other. All these provided a good basis for co-parenting after divorce.

#### 6.2.3.3.1.1 Personal Life

The process of mediation is an empowering process that has therapeutic effects on the users. On the one hand, the mediators were emotionally supportive and responsive during the session. The users could express their feelings freely in the session and their concerns were well addressed by the mediators. A feeling of being understood and cared about arose in the users.

*Mediation helps the clients to release their negative emotions such as resentment against their ex-partners. As a mediator, I have to provide such opportunities and comfort them afterwards. They know that they are not alone in the divorce process, which helps them to move on after the divorce. (NFC\_PC\_02)*

With the negative emotions released and the agreement reached, the two parties called a closure to the torturing divorce process that was fraught with disputes and psychological distress. Both parties could put the past aside and move on more easily after the mediation.

*I suppose mediation to some extent gives the clients a chance to release their piled up negative emotions. Indeed, many clients told me that they would never contact their ex-spouses after their divorce. Therefore, mediation may be a good platform on which to end the marital relationship in a relatively peaceful way. At least, there is a chance for them to vent their anger upon their ex-spouses. It may also minimize the long term negative impact on the divorcees and their family members. (FM\_FC\_NGO\_01)*

*On another level we need to deal with their negative emotions. When they find that some issues are resolvable, they feel more relaxed and that may have a good impact on their mental health. They are in a better mood, and in return, this can help them to cope with the post-divorce challenges. Apart from the legal divorce, they still have to cope with the social divorce, i.e., the adjustments they must make with their friends, relatives and family members. They will accept the divorce easier and faster if the divorcing couple is able to go through it in a smooth way. Of course, different people have different paces. Some people tell their friends and relatives about the divorce right away but others have more hesitation about doing so. They are more ready to announce the news to others once they have finished the legal proceedings. (FS\_FC\_NGO\_06)*

On the other hand, the process of mediation itself was both empowering and educational. The mediators structured the meetings, set rules for conflict resolution,

encouraged the users to speak for themselves and to try the new pattern of communication, and supported them while they got through the messy procedures with courage and autonomy. The users learned new skills in communication, developed insights about the relationship, and their sense of autonomy was increased. At the same time, the discussion and arrangement of the detailed practical issues after the divorce also helped to get the two parties ready for the new living status.

*The clients value the win-win situation in mediation. They don't want them both to suffer at all. They realize that an agreement will be reached sooner or later if they are persistent in mediation. Once the agreement is reached, both of them feel relaxed and settled. When the absolute decree is issued, they know that everything is settled. Then, they are able to start a new page in their lives. (FS\_FC\_NGO\_08)*

*Using the mediation service is beneficial to the clients because they participate in the process actively. Instead of accept the arrangement passively, they have a sense of control over the process.... They have voices.....So it is an empowering process. If they just delegate the power to the court, they feel powerless and helpless. In mediation, they have a say and are able to influence the outcome. They are listened to and understood by others... I think the mediation process impacts the clients in a positive way. (FS\_FC\_NGO\_07)*

#### 6.2.3.3.1.2 Relationship with Ex-spouses

With the negative emotions released and the disputes settled, the divorcing couple's communication usually became less conflictual. Some mediators observed an improved relationship between the two parties after the mediation because mediation provided a platform for them to share information, discuss their concerns openly and constructively, and reflect on themselves and their marriage with the assistance of the mediators.

*During the process, we asked the clients to think about whether they can co-ordinate and come to a consensus based on their understanding of the needs of each side. I believe that it is a reflective and a re-learning process for the clients. (FM\_NFC\_NGO\_03)*

During the process, the mediator also helped the two parties to see each other from different perspectives and encouraged the recognition of each other's strengths and contributions. For example, the one party might not be a good wife / husband in the other party's eyes; however, she/he might be a responsible and capable parent with regard to taking care of the household and the children. With this new perspective and the new communication skills learnt from the mediators, the users often expanded their psychological capacity, controlled their anger well and developed a more peaceful relationship with the ex-spouse.

*Actually, mediation somehow may help the clients to broaden their views of their ex-spouses. They used to blame each other whenever they talked to each other. In the mediation process, they learn a new set of communication skills that are less provocative. When they are less overwhelming, they become less judgmental toward the ex-partner and may change some of their impressions of them. (FS\_FC\_NGO\_02)*

*Some clients told me that it is easy to intensify the conflict with their ex-spouses in the litigation process due to the oppositional attitude of both parties. The process is painful and uneasy. Rather, the mediation process helps them to minimize the conflict. One client said, "After the mediation session, I feel relieved. It seems that I don't have the resentment of him anymore." (FS\_FC\_NGO\_02)*

Even in those cases that had not reached full agreement through mediation, the issues were more easily settle in court later on due to the thorough discussions and deeper understanding the parties had of themselves and towards each other developed through the process.

*The clients quitted the mediation service. However, they knew each other's needs through the mediation process and that provided them with a good foundation for further negotiation. They had a realistic expectation of each other. Even though they did not reach any agreement in mediation, they knew their ex-spouses' baseline. Thus, I don't think mediation had no impact on them. (FS\_NFC\_NGO\_01)*

#### 6.2.3.3.1.3 A Basis for Co-parenting

Mediation sets a basis for the long-term co-parenting practice of the divorced couples. For one thing, the mediation resolved the disputes between the parents and thus relieved the children from a chaotic disrupting conflictual environment; for another thing, the children would not receive as much negative emotion from their parents as before since the parents also became relieved and relaxed after the mediation. For the third thing, the mediators educated the users about the negative consequences of divorce on children, the help children need to adjust to the transition, and the importance and skills of parenting the children cooperatively after the divorce. Last but not the least, the parents' resolving their dispute through peaceful mediation also set a good example for the children to follow. With a better relationship between the two parties, they could communicate rationally, identify alternatives in their lives and make better arrangements for their children in the future. Co-parenting is a long-lasting task that needs the two parents' partnership even though they are no longer intimate with each other.

*I teach the clients how to tell their children about the divorce, e.g., divorce is an adult decision and has nothing to do with their children, and how to reassure their children that they care about and love them even though they are no longer living together. These messages help the children a lot to minimize their anxiety over the changes in the family. (FM\_FC\_NGO\_01)*

*For the clients who have children, we shall convey the message of co-parenting to them. We shall tell them that their children's best interests are the prime concern. It is the first lesson on co-parenting. (FM\_FC\_NGO\_02)*

*I remember that there is a good example. I came across a case which was done by my supervisee...I asked the mother whether she could attend the meeting with her ex-husband next time. The mother said, "No, I don't think so. I hate him a lot and we cannot talk to each other at all." I asked her once again but she still refused to do so. I said "Well, you really have to discuss the children's issues with him. Is it possible if you treat him like a friend?" She replied, "No way! It is impossible!" Then I said, "Can you two co-operate with each other as your kid's parents? ...You really need to co-operate with him because*

*the kids do not belong to you only.” She paused for twenty seconds and thought deeply. Then she replied “I can’t talk to my ex-husband like a friend, but I can co-operate with him as a parent.” (FS\_FC\_NGO\_06)*

### **6.2.3.3.2 To Children**

#### 6.2.3.3.2.1 Minimize the Suffering of the Children

Negotiating the child relevant issues such as custody, living arrangements and custody through family mediation could protect the children from going through the lawsuit and allow detailed arrangements through thorough discussions to be made on the other. The children would suffer from the parents’ divorce; however, the suffering could be minimized if the procedure for rearrangement was a peaceful one.

*We have to safeguard the welfare of children. Obviously, it is the major difference between using and not using mediation. In a court hearing, the judge has the ultimate power to determine the child’s welfare such as with whom the child will live together etc. Without the say of the parents and the child, it leads to much suffering for the child. (FM\_FC\_NGO\_01)*

#### 6.2.3.3.2.2 Setting up a Good Example for the Children

Children could learn effective problem solving skills as they follow the parents’ good example of using a harmonious means to settle disputes.

*I think the parents set up a good role model when they adopt mediation to settle their disputes. In spite of their poor marital relationship, they use a constructive means to resolve the issues... some empirical studies have indicated that if parents use a less harmful way to settle their divorce disputes, children will transit into the post-divorce period of their parents smoothly. In addition, if the divorced couples comply with the agreement, their children will benefit more. If the parents cause much trouble for each other, such as asking for money from their ex-partners frequently and providing inappropriate care for their children etc., then the children will be influenced negatively. (FM\_FC\_NGO\_03)*

#### 6.2.3.3.2.3 A Better Adjustment after Parental Divorce

Family mediators rarely included children in mediation meetings because children are faced with many dilemmas in such a situation, such as whether to be neutral or to side with one parent. If they must involve the children, the mediators must have a thoughtful plan. It was a common practice that they would prefer to interview children who were adolescents and mature enough to make decisions on their own. They would arrange individual interviews for them and brief them on what was going on in the marital relationship of their parents, and assure them of their parents continuing love for them even though their parents were separating. No matter whether the mediators interviewed the children or not, they would highlight the children's voices in the mediation so that their parents took serious notice of their children's ideas. In cases where some of the children were in need of special services, the mediators would make referrals to specialized services such as counselling or play therapy for the children in order to facilitate their positive coping with the transition. The mediators found that the children were happier when they knew that their parents still loved them despite the divorce.

*If the case was referred by a family social worker, we will tell the case worker about the concerns of the divorcing couple that prevented them from telling the truth to their children. In mediation, we try our best to educate the clients to understand that they must shift their attention from their own benefits to their children's welfare. We also emphasize their parental responsibility that even though they are divorced, their children still need things such as love, care and concern from their parents. Most clients are moved after listening to this. If some clients still find it hard to come to a compromise on their child's arrangements, we shall discuss it with their family social workers and suggest they provide intensive counselling services for the clients and support services for their child. (FM\_NFC\_NGO\_03)*

#### 6.2.3.4 Sustainability of the Agreement

Concerning compliance and the sustainability of the agreement, although the mediators regarded that it would be helpful to review the workability of an agreement periodically, due to the heavy caseloads and the concern about confidentiality they have seldom followed up on cases once an agreement was reached and was submitted to the court. The information about the condition of compliance with the agreement by the concerned parties was usually obtained through occasional informal contacts with the clients.

*We do not pay special attention to follow up cases. We might do that in some special cases but it is not the usual practice to follow each case after agreement has been reached. Undoubtedly, it is beneficial to the effectiveness of the service and it is worthwhile to do the follow up provided that we have the spare time or adequate manpower. Nevertheless, we are overwhelmed by the heavy workload. Sometimes, they (the clients) might call us after a few months and we will then ask about their current status. (FS\_FC\_NGO\_03)*

From the experiences of the mediators, compliance with an agreement reached through mediation was usually better than the arrangements being enforced by the court. The high possibility for compliance with the agreement is grounded on three reasons. First, the agreement was made with the active and autonomous participation of both parties, which enhanced their willingness to comply with it wholeheartedly. Second, the mediators would work out the details of the agreement as much as possible to minimize the risk of violation by the parties. Third, the mediators were skillful enough to assess the workability and the feasibility of the agreement and brought out the possible problems before the agreement was finalized.

*Actually, our organization conducted a simple survey in 2008. The study was targeted on divorced couples who used either mediation or litigation to settle their disputes. Some had already been divorced for 3 years. We have found that the compliance rate for the service was almost 80%. We believe that it is due to the fact that both parties have equal*

*participation in making the agreement. The more they participate, the higher the success of the compliance with the agreement. (FS\_FC\_NGO\_01)*

*If they [the divorcing couples] can fully voice their concerns during the mediation sessions, they will not feel that they are forced to accept the agreement because they also play a role in making the agreement. Besides, we test the attitude of the court towards the agreement and foresee the difficulties of putting the agreement into practice before it is finalized. Furthermore, we will work out the details of the agreement as much as we can e.g., when and under what conditions the agreement will be executed. During the process, we will think of any possibilities that may lead to the risk of violation of the agreement and brainstorm some strategies to minimize the risk together with the clients. (FS\_FC\_NGO\_05)*

Problems leading to non-compliance with the agreement might happen when the parties or their children have experienced changes in their lives such as their marital status, employment situation and the residing place of the divorced couple, the development needs of the children, and the health conditions of family members etc. Therefore, an agreement that involves on-going issues such as alimony and childcare arrangements has a higher risk of non-compliance when compared with those that were one-shot issues such as property and accommodation arrangements. Some mediators would prepare the clients for these anticipated life changes and provide relevant solutions to them whenever necessary. Apart from these situational factors, unresolved tensions between ex-spouses might lead to a high risk of re-litigation if one party violates the agreement. Those divorced couples who continued keeping a harmonious relationship after mediation were able to compromise with each other or seek mediation again when they encountered difficulties with following the agreement.

*I assume that it is quite normal to revise the agreement because there are always some changes in the life situations of both parties such as marital status, the employment situation, health conditions or the living place as well as changes in the children when they grow up. I remind the clients to contact me or to use mediation again whenever they encounter any difficulties when they carry out the agreement. (FS\_FC\_NGO\_01)*

*I think some terms of the agreement are hard to comply with over the passage of time. For instance, if the term for alimony for the children of \$600 per month was agreed by the parties when their child was 3 or 4 years old, it will be hard to keep this term until the child is 18 years old. Whether they will choose re-litigation or mediation or compromise in private when they encounter difficulties in complying with the terms is somehow dependent on their relationship. Those parties who have had an aversive relationship all along may choose re-litigation or mediation. If the divorced couples are able to keep a relatively harmonious relationship, the issues are no longer a big deal for them as they are able to compromise with each other easily. (FS\_NFC\_PC\_02)*

### **6.2.3.5 Comment on the Service**

The mediators also thoroughly commented on the logistical aspects of the current family mediation services regarding the aspects of financial subsidy, service coordination and the scope of the service. First, they appreciated the importance of financial support in increasing the usage of the service and in helping those of low in-come; however, they also pointed out the current charge rate for the service was out of date and the provision of the service by NGOs increased the financial burden on NGO agencies. Second, they were generally satisfied with the procedure for coordinating mediation with other departments but they encountered problems with departments like the LAD. Last but not least, they regarded that mediation was basically remedial in nature, and with the changing needs of society, the service could be reformed and provided to couples at the pre-divorce stage.

#### ***6.2.3.5.1 Financial Subsidy Mode***

##### ***6.2.3.5.1.1 The Legal Aid Services Recipients***

The informants regarded that the financial support from the government was very important and helpful for the users of low income. However, a few mediators experienced frustration when they collaborated with some funding bodies such as the LAD. They commented that some solicitors and staff of the LAD were not familiar with the mediation

service, so that together with the complicated procedures and a long waiting time for the application and approval, it resulted in increased time and energy being spent on handling logistics issues.

*The staff of the LAD might not know clearly about our service and how to make contact with us. (FM\_FC\_NGO\_03)*

*The biggest problem is not with the FMCO but with the LAD. When a legal aid recipient seeks mediation, the LAD takes charge of everything. After the client signs a form giving consent to use the service, he / she will choose a mediator and the LAD will contact the mediator for the client. The staff of the LAD will contact us and request us to send a resume to them for final approval. It may take less than two weeks to finish this procedure. After that, we have to wait for more than two months before a final approval is issued. I really don't understand why it takes so long. I am not sure whether it is a problem with the LAD, the lawyer or the client. The LAD has no obligation to keep us informed of the progress. Although the LAD will approve our application sooner or later, I think it takes too long and I can't arrange a mediation meeting for the clients. (FS\_NFC\_NGO\_02)*

#### 6.2.3.5.1.2 The FC's Pilot Scheme

The mediators also pointed out other problems in current financial subsidy mode, which is project-based and short term. Take the FC's Pilot scheme as an example. With the strict means test for income, the scheme helps those who are very poor but not those families of the working poor or some middle class families with relatively heavy financial burdens. This scheme could also be taken advantage of by some users who possess lots of property but have flexible income. Some informants suggested that when evaluating the users' qualification for financial support, the criteria should be determined according to a family-based comprehensive examination of their income and expenses.

*The FC's pilot scheme has a set of rules to determine the eligibility of recipients. However, the criteria are not able to reflect the real financial situation of a person. For instance, we can't evaluate a person's financial condition based on income only. If a person earns ten thousand dollars each month but he spends almost \$7000 for rent, there is a very limited amount of money available for him to support the children. I really think that he must get a subsidy for the service but he can't because his income exceeds the*

*criteria set by the FC. The income criteria for the scheme are too mean. As a result, some people are not able to use the service. (FS\_FC\_NGO\_08)*

*The FC is attractive to those who are retirees because they have no income. However, they might have properties. Also, business men benefit from the scheme because they can easily fulfill the income requirements set by the scheme. You know that many business men are tricky when they report their earnings. (FM\_NFC\_PC\_01)*

Besides the above, the rate for the subsidy given to each family mediator was out of date in the eyes of the mediators. With the rate of the subsidy being far lower than the actual cost of the mediation service, the agencies that provide mediation service could not be fully subsidized by the government, which increased the financial burden on the agencies and resulted in less motivation to sustain the mediation service.

*I don't understand why the subsidy rate is so low. It is quite humiliating indeed. In 2000, the actual cost of each mediation case was around \$600. After 15 years, the actual cost has increased due to the inflation. It should be at least \$1000 to \$1500 now. The cost calculation formulate is very complicated too. We have to mark down the actual time of each mediation meeting accurately and we always have to spend a lot of time to do it. Besides, the subsidy does not include expenditures such as the venue, sundries, manpower etc. (FS\_FC\_NGO\_02)*

The government's insufficient and inappropriate funding for mediation service could be a problem that will hinder the development of this service in the long run. To make the subsidy model really helpful for those in need, the government should review the model and consider reformation.

*As the service are becoming increasingly popular due to the enforcement of the practice direction in family mediation, the government has to consider a long term plan for the service. Indeed, there are many people who are unable to use the service due to the lack of subvention. (FS\_FC\_NGO\_09)*

#### **6.2.3.5.2 Coordination of the Family Mediation and Other Services**

In general, the respondents were quite satisfied with their coordination with the service of the FMCO. They appreciated the information sessions and the appropriate

referrals made by the FMCO so that the clients often got a basic idea of the procedure, rules and function of the mediation service. The users were also given autonomy to select a mediator, after receiving suggestions from the FMCO.

*As for the FMCO, the service is well-established and well-coordinated. If our clients are referred by the FMCO, they will already have gotten some brief ideas on mediation. They can tell us things like mediation is a peaceful way to settle divorce-related disputes; mediation is beneficial for the children etc. Actually, the FMCO provides a good education session for them. (FS\_FC\_NGO\_09)*

Respondents commented that coordinating with the FMCO was efficient and they are easy to access. The mediators also appraised the process as smooth and the staff of the FMCO as quite helpful in briefing them on case backgrounds.

*The service provided by the FMCO are efficient and effective. If a divorcing couple chooses me as their mediator, the staff will contact me within a few days. They also do a comprehensive case assessment in the intake session and provide accurate information about the clients to me. So I really appreciate their staff, who are very experienced. (FS\_NFC\_PC\_01)*

*I must show my appreciation for the location of the FMCO. The office is located at M2 of the Family Court Building, which is very accessible for clients, and in particular, for those who are referred by a court judge. The office is reachable by clients who use the court services. The users are able to obtain relevant information from it. (FS\_FC\_NGO\_09)*

For improvement, some mediators felt that the FMCO should not only provide mediation information but also counselling services for divorcing couples. In addition, they found that the accessibility of the service would be improved if the service were rendered as part of the routine services of the IFSCs. At the same time, other supporting services such as counselling services and support groups for parents and the children could be provided by the IFSCs for the people who are going through mediation.

*With reference to the model used in other places, the services of the FMCO can be expanded to counselling services. A couple's decision to divorce may be reversible if appropriate services are provided for them. Of course, they can seek help from the IFSCs*

*or we can refer them to the IFSCs. The FMCO is reachable for the general public and they may be able to identify these clients earlier or easier. (FM\_NFC\_PC\_05)*

*I believe that it is necessary to have a good collaboration between mediation and the IFSCs. If I have a couple with a high degree of conflict in mediation, it is really helpful if one party, such as the wife, is supported by a counsellor or a social worker. Then the mediation process will be relatively smooth. Of course, we have a clear division of labour. The IFSC worker can provide emotional support and resources to the wife, and advise her on how to protect herself, especially for the cases that have risk or involve domestic violence. (FM\_FC\_NGO\_01)*

Of course, whether to add the family mediation services to the routine services of the IFSC involves some practical issues such as the capacity of the agency to increase its workload.

*I believe that the government has an intention to maximize the functions and the services of the IFSCs. Like my agency, we have mediation service in the IFSCs. However, there is always tension between mediation and the routine services of an IFSC over workloads. Everybody knows that our IFSC social workers have already had a very heavy caseloads and they have to deal with many crisis cases as well. I am wondering if they still have the capacity to handle mediation cases. Even though we have some social workers who are trained as family mediators, they put limited time into mediation due to time constraints. In view of that, I am not sure what a good service delivery model is: incorporate it into an IFSC or render it in a specialized centre. (FS\_FC\_NGO\_04)*

### **6.2.3.5.3 Service Nature**

Some informants thought that the scope of the mediation service could be extended to deal with the issues before the divorce was filed. In other words, it could be provided at an earlier stage as a preventive strategy that would protect and prevent the discord in the relationship from escalating to divorce.

*Apart from funding resources' promotion work and public education work, I think the government should consider expanding the scope of the service to prevention. (FS\_NFC\_PC\_01)*

*Do you find any community centre that advocates the use of mediation? I believe that mediation should be provided to couples before they file for divorce. People can use it when there are experiencing marital discord such as the husband does not provide family expenses or there is intensive conflict between parent and child. I do not understand why*

*family mediation is strictly used by divorcees only. In fact, divorce is the final stage of a marital relationship, which is very often an irreversible situation. (FM\_NFC\_PC\_02)*

*I believe that some people prefer mediation to counselling because mediation emphasizes rationality. It resolves the disputes with a clear agenda. Some people are not well prepared to deal with their feelings or emotions through counselling... I think mediation can be used for resolving marital conflict. (FS\_NFC\_PC\_01)*

### **6.2.3.6 Overall Summary**

As revealed by the mediators and the supervisors, the enabling factors for the success of the service were threefold: the user-relevant factors, the qualities of the family mediators and the court relevant factors. Divorcing couples who had a better relationship, a higher motivation to seek mediation, a proper knowledge of mediation and autonomy in making decisions in mediation process, found it easier to attain a smooth mediation process and to reach an agreement. In addition, the mediators should be equipped with professional competence, and in particular, they should be able to address emotional issues, structure the mediation sessions well, provide objective perspectives and keep themselves neutral and impartial.

Furthermore, the court and the solicitor have an influence on the process and the outcome of mediation. The mediation process could be smoother when the couple had been well-informed about their legal rights and responsibilities by a legal professional. Nevertheless, some informants were of the opinion that when the divorcing couples had rich legal knowledge, the negotiation process would be more difficult because the parties might take a firm stand. This was particularly true if their legal representatives attended the mediation meetings, which led to an unbalance of power between the parties.

Therefore, the mediators must have good professional judgement regarding whether or not to involve them in the meeting.

The findings also revealed the impact of family mediation on the service users as well as their children. In brief, the informants regarded mediation to be advantageous to divorcing couples with respect to relieving psychological distress, settling the practical issues, maintaining better communication with each other and setting up a good basis for co-parenting. Meanwhile, children benefited from the service. Mediation could help children to minimize their suffering over parental divorce, to witness a good example of resolving conflict constructively and to facilitate a better post-divorce adjustment.

With regard to the service, generally speaking, the mediators were satisfied with the service, and specifically, with the coordination provided by the FMCO. Nonetheless, they pointed out several issues in relation to financial subsidies, service coordination and the scope of the service that could negatively influence the development of the service in the long run. The suggestions include enhancing the function and the role of the FMCO and the IFSCs, reforming the financial subsidy mode and expanding the scope of the mediation service.

## **6.2.4 VIEWS OF NON-SERVICE USERS**

### **6.2.4.1 Informants Profiles**

To compare the effects and experiences of using litigation and family mediation in divorce proceedings, we interviewed not only the service users but also the non-service users to understand their lived experiences. Table 6.5 indicated that we have interviewed 8 non-service users, including 1 male (n = 1) and 7 female (n = 7). The majority of the informants (n = 6) ranged from 30 to 40 years old and the rest (n = 2) were aged between 41 and 50. They attained either a high school educational level (n = 7) or university or above level (n = 1). Even though they were quite well-educated, most of them were full time house wives (n = 5). Most of the informants had been married for less than 10 years (n = 6) when the divorce was filed. Seven of them (n = 7) were identified from the IFSCs of the NGOs who received counseling services from there. The remaining one (n = 1) was a client of a private law firm.

**Table 6. 5 Profiles of the Non-service Users**

		<b>Non-Service Users(n=8)</b>
<b>Sex</b>	Male	1
	Female	7
<b>Age</b>	21-30	0
	31-40	6
	41-50	2
	>50	0
<b>Education</b>	Below junior high school	0
	High school	7
	University or above	1
<b>Occupation</b>	Full-time housework	5
	Full-time work	1
	Part-time work, unemployed, retired	2
<b>Length of marriage/ co-habited</b>	1-5 years	1
	6-10 years	5
	11-15 years	0
	16-20 years	1
	>20 years	1
<b>Source of referral</b>	Hong Kong Children and Youth Services (HKCYS)	5
	Tung Wah Group of Hospital (TWGHs)	1
	Yang Memorial Methodist Social Service (YMMSS)	1
	Law Firm	1
<b>Types of services received</b>	Counselling	7
	Legal Service	1

Similar to the service users, the non-service users who chose to use litigation to settle their divorce-related disputes had experienced emotional ambivalence and worries about their future after the divorce. Their concerns included housing, finance, children's living arrangements and the relationship with their ex-spouse. The findings indicated that the informants did not use the service because of 1) the perceived advantages of using litigation; 2) the lack of knowledge of and access to the service; 3) the uncooperative attitude of their ex-spouses; and 4) misunderstanding the nature of the service.

## **6.2.4.2 The Reasons for Not Using Family Mediation**

### ***6.2.4.2.1 The Advantages of Litigation - Convenient and Enforced by Laws***

As the conventional method of dealing with divorce matters, litigation was regarded to be the most common practice and most convenient way for the informants to settle their divorce disputes. This was particularly true for divorcing couples where domestic violence from, or high conflicts with, their ex-spouse was involved as they were usually uncooperative dealing with divorce matters. Final decisions that were enforced by law could increase their compliance.

*I saw a leaflet about legal services for divorcees. I made a phone call and Ms. X [a solicitor] answered my call and advised me to apply for legal aid. After that, my case started to be followed by a lawyer. I did not know much about law. I saw those hotline phone numbers written on the roadside banners when I brought my children back from school. ...The situation hasn't changed ... He (husband) remained the same. Hence, I decided to file for a divorce. Things went smoothly in court. He was there every time. The issue was resolved very quickly in court (e.g. the maintenance issue). Overall, handling these issues in court was successful. (NSU\_PC\_01)*

### ***6.2.4.2.2 The Lack of Knowledge of, and Access to, Family Mediation Services***

In most cases, they did not choose family mediation because they did not know it was available or how to access the service. Some informants supposed that litigation was the only option for them.

*I really did not know about the service and I didn't know where to ask. For example, when you interview me, I can consult you through the interview. Now, I understand that there are such services in Hong Kong. (NSU\_PC\_01)*

### ***6.2.4.2.3 Uncooperative Attitude of Ex-spouses***

When we asked them if they would use the service if they got the information about them, some interviewees still hesitated because they regarded their ex-spouse as

being “unreasonable” and “stubborn” and thus they were less likely to try to use mediation.

*I did not consider using mediation service because I had already made the final decision after seeking opinions from three social workers. I also knew that my ex-husband was not trustworthy and denied his financial responsibility for the family. Indeed, he was a deadbeat. That explains why I didn't think about mediation at all. (NSU\_PC\_01)*

*He had never taken the initiative to provide money for the family. I had to ask him every month. Therefore, it was useless for me to seek mediation because he was relentless. I would not mediate with him. (NSU\_NGO\_02)*

*Mutual consent must be sought. My ex-wife rejected it so I did not use the service. I talked to her several times but she still refused to do it. (NSU\_NGO\_04)*

#### **6.2.4.2.4 Misunderstanding on the Nature of Family Mediation**

A lot of interviewees misunderstood, and thought that family mediation was a service aimed at reconciliation with their ex-spouses. Since they were in despair over the marital relationship and were determined to divorce, they did not perceive family mediation as an option.

*Family mediation is pointless if the man no longer loves you. Even though you have done that, he will remain the same. It is not my personal problem at all. It is about the children. Er...the man is not a good guy if he fails to take care of his children. (NSU\_NGO\_02)*

#### **6.2.4.3 The Possible Positive Impact of Family Mediation**

Though none of them had used the service and they might not consider the service feasible in their situations, they regarded that family mediation might have some positive impact when compared with litigation. First, some perceived that the mediation process might facilitate better communication with one another, resulting in re-pairing their marital relationship. Second, it might be a good chance for them to settle the issues such as the living arrangements (especially the children's) peacefully and constructively and thus facilitate a better post-divorce adjustment for family members. Thirdly, family mediators

might give some guidance for the divorcing couples on how to co-parent their children, which was definitely beneficial to the well-being of the children.

*I think the situation will be better if I use the mediation service. Frankly speaking, no one wants to be single, right? It is better to restore and repair the marriage... Honestly, I believe that the relationship can be repaired. I will try to repair the relationship because it is good for the children and us. (NSU\_NGO\_02)*

*In fact, I think we can settle the divorce dispute in a better way if we use mediation. Even though we do not love each other anymore, we will still be the parents of the children after the divorce. It should not cause unnecessary harm to the children because it is not the children's fault. I think it is necessary for couples to keep in contact with one another even after a divorce. In my case, I do not love him anymore but I try to treat him as a family member. I will help him if he has problems. I hope that all divorcing or divorced couples can treat each other like this. (NSU\_NGO\_02)*

#### **6.2.4.4 Overall Summary**

Nowadays, litigation is still the most common practice and a convenient way to settle divorce-related disputes. Having said that, the informants perceived that there were some advantages to using family mediation in terms of the improved communication between the ex-spouses, child care arrangements and co-parenting after the divorce. These findings also indicated that some non-service users lacked knowledge of, and access to, the service and some even had misconceptions about the purpose of the service. To address these barriers, it is necessary for us to re-think the promotional strategies in order to advocate a better use of the service.

## **6.2.5 VIEWS OF THE STAKEHOLDERS OF FAMILY MEDIATION**

### **6.2.5.1 Profiles of the Informants**

By stakeholders in this study, we refer to expert informants, the service referrers and the service providers (Table 6.6). The two expert informants (n = 2) were an ex-civil servant and a legal professional respectively. They provided rich information on the development of family mediation in Hong Kong, which was reported in Chapter 2. We recruited 5 service referrers and 6 service providers. Regarding the service referrers, we refer to the helping professions who referred their clients to family mediation services. These referrers were selected because 1) they had extensive experience working with divorcing couples of different socio-economic statuses; 2) had made frequent referrals to family mediation services; and 3) had rich experience in collaborating with family mediators. Among them, 4 (n = 4) were female and another one (n = 1) was male. The five service referrers were composed of 2 (n =2) civil servants, 2 (n = 2) lawyers and 1 (n=1) social worker. The civil servants included a lawyer of the LD and a service-in charge of the SWD. The two lawyers worked in private law firms and the social worker worked as a counselor for a self-financed family service center.

The term service providers refers to the stakeholders who played a supportive role in family mediation, particularly in service co-ordination and management. They were recruited because 1) they played a significant role in service delivery (either court-based or community-based) or in financial subsidy; 2) their affiliated organizations / units have been actively involved in family mediation since its establishment. A total of six informants, with 5 (n = 5) female and 1 (n = 1) male, were involved in the study. Three of

them (n = 3) were civil servants and 3 (n = 3) were social workers. Among the civil servants, 1 (n = 1) was an officer of the FMCO and 2 (n =2) were administrators of the HAB. Three (n = 3) social workers were the service heads of three well-established NGOs that rendered family mediation services and other family related social services.

**Table 6. 6 Profiles of the Stakeholders**

		<b>Experts (n=2)</b>	<b>Service Referrers(n=5)</b>	<b>Service Providers(n=6)</b>
<b>Sex</b>	Male	1	1	1
	Female	1	4	5
<b>Organization</b>	Government	1	2	2
	Statutory body	0	0	1
	Law Association	1	0	0
	Private law firm	0	2	0
	NGOs	0	1	3
<b>Profession</b>	Civil servant	0	2	3
	Lawyer	1	2	0
	Social worker	0	1	3
	Ex-civil servant	1	0	0

### 6.2.5.2 Findings of the Service Referrers

#### 6.2.5.2.1 Circumstances Leading to the Referrals

The informants who had legal professional backgrounds referred clients to family mediation services on the grounds of Practice Direction – 15.10 concerning Family Meditation. Apart from it, as the fee for litigation proceedings is high, the referrers would strongly recommend the service to users who had financial difficulties, such as those in the low income group. Also, they would encourage the clients to use the service when the clients were more ready to co-operate with their ex-spouses. Whenever they had clients whose cases involved child-related disputes, especially child custody, they highly

considered referring them to the service for the protection of the children's welfare and best interests.

#### 6.2.5.2.1.1 Practice Direction

*According to the rules of the court, we need to provide the family mediation pamphlets to the parties, explaining to them what family mediation is about. The court has a practice direction that solicitors need to explain the content of family mediation. In addition, we will explain to the parties whether their cases are suitable for family mediation, and also both the advantages and disadvantages of using family mediation. The parties could then decide if they want to take mediation or not. Usually, we advise the parties to take mediation, and most of them will agree. (ST\_SR\_05)*

#### 6.2.5.2.1.2 Financial Difficulties with Litigation

*For instance, in some cases in which the parties have to fight over a certain amount of property, mediation could help them save some legal fees. We will highly encourage clients to use the service in such cases. (ST\_SR\_01)*

*If the parties don't have much money, even if they want to file a lawsuit, they wouldn't be able to do it. Even if you are from the upper middle class, with an income up to one hundred thousand per month, you won't be able to afford the legal fees. (ST\_SR\_01)*

#### 6.2.5.2.1.3 Potential to Work with their Ex-spouse

*From our point of view, some cases don't have complicated issues, and discrepancies are not large. We think those cases have a good chance to succeed in mediation. (ST\_SR\_01)*

*If the couples think they couldn't maintain their marriage and divorce is irrevocable, or if, as in some cases, there are extra marital affairs and the couples have children, then they will have to divorce. They couldn't talk to each other without a third party or they could not handle the divorce issues. Under these circumstances, I will suggest they find a mediator, and notably in cases in which the couple can communicate with each other, but fail to communicate rationally without the presence of a mediator. (ST\_SR\_03)*

#### 6.2.5.2.1.4 Involving Child-related Disputes

*Usually it's about custody. Sometimes the couples might compromise on joint custody. Both might agree that the child could stay with the other party half of the time. Mediation could be a way to help those with a conflict like this. (ST\_SR\_05)*

*They hope to maintain the relationship, especially those who have children. They don't want to confront each other in court and intensify the dispute. Parents with clear minds know that their children will be affected in the end anyway. (ST\_SR\_01)*

#### ***6.2.5.2.2 Perceived Benefits of Family Mediation***

The informants indicated that family mediation was beneficial to the divorcing couples and their children in terms of the protection of child welfare, the sustainability of an agreement and preservation of relationships. Apparently, family mediation was a cost-effective and an efficient way when compared with litigation. The informants also perceived that the sustainability of an agreement reached through mediation was higher than that of a court order because the agreement was jointly decided by the divorcing couple. Very often, the service users could settle their disputes through mediation in a peaceful and a harmonious way, which could preserve the family relationship even after a divorce.

##### ***6.2.5.2.2.1 Protection of Child Welfare***

*From the legal aspect, everything related to the children is open and transparent that protects the welfare of children. (ST\_SR\_01)*

##### ***6.2.5.2.2.2 Increased Sustainability of the Agreement***

*From my experience, if the parties could reach a compromise, either through mediation or out-of-court settlement, they will follow the agreement more willingly. It also lowers the chance that one of the parties will violate the agreement. In other words, if it is only enforced by the court, the parties will be more likely to violate the ruling. (ST\_SR\_02)*

##### ***6.2.5.2.2.3 Hope for Preserving the Relationship***

*It could be a positive encounter for couples with many conflicts to experience the sense of communicating in a rational way. So it could be a relearning and a new experience for them. (ST\_SR\_03)*

### **6.2.5.2.3 Views on the Service**

#### 6.2.5.2.3.1 Promotion

The overall promotion of family mediation was sufficient. Some informants suggested that the promotional materials should put more emphasis on the neutrality of family mediators as well as on the actual implementation of a family mediation session.

#### 6.2.5.2.3.2 The Issue of Neutrality

Some users misunderstood the functions of family mediation and *felt* that mediators tended to support the female party. The informants suggested that the neutrality of family mediators should be emphasized in the promotional materials.

*The public might still have some misunderstandings about mediation. More promotion is needed. There are promos about financial mediation in newspapers and on the radio, yet are there any promos for family mediation? (ST\_SR\_04)*

#### 6.2.5.2.3.3 Implementation of Family Mediation Sessions

Some referrers found that some professions did not have a good grasp of how a family mediator conducted a mediation session, which might become a barrier to making referrals. Relevant information or training sessions for potential referrers were suggested.

*I think more briefings about mediation might help. If our colleagues know what mediation is all about, and how it is done, it will benefit the referral service and more cases could then be referred. You couldn't convince people to use the mediation service if you don't know anything about it yourself. Training is necessary for referrers; they should understand the process and how mediation is done. Besides, promotion is needed. (ST\_SR\_04)*

#### 6.2.5.2.3.4 Accessibility

The concern about the accessibility of the service was raised. Some referrers encountered difficulty with searching for service that was near the clients' living places. Information on the locations of the service was unclear in the promotional materials.

*If the clients don't mind travelling, it will be easier. Yet, some will hesitate. For instance, some clients living in Sheung Shui will hesitate to go to Kwun Tong or Hong Kong Island. Some clients feel puzzled and do not know where to find the service. You may wonder where you could refer the clients to since the mediation service are not evenly distributed at the moment. (ST\_SR\_03)*

*They will hesitate, especially those who are from the grassroots. They don't want to meet the other parties in the first place, and the transportation fee is a big concern for them. So, if you ask them to travel far away, they might not do it, considering the high travelling expenses. (ST\_SR\_03)*

*We don't exactly know about the service distribution. Sometimes, even if I want to refer cases to some NGOs like Caritas, I don't know which district provides the mediation service, so I have to call back to their Headquarters to ask for the details. Thus, the referral process will be lengthened. (ST\_SR\_03)*

#### 6.2.5.2.3.5 Financial Subsidy

The informants indicated that different financial subsidy schemes were important and necessary for the users because a reasonable service charge could reduce the users' financial burden and increase their motivation to use the service.

*Compared to litigation fees, the mediation fee is already very low. Yet it could be a burden to the grassroots. This is because in some cases, they might have more emotional problems when there are no social workers or counsellors to follow their cases. Hence, more time is required for them to understand the entire process. That explains why more sessions are needed, and the mediation fee could therefore be higher. (ST\_SR\_03)*

*Some cases might not yet fall into the CSSA categories, even though their incomes are low. It's difficult to find mediation service for them since most of the mediation service do charge. In general, it's affordable for the middle class, but not so for the ordinary grassroots. (ST\_SR\_03)*

*It's ok if the service is free for the parties. Since there's no cost, why not give it a try. Yet for those who have doubts about trying the service, it will be much more difficult to persuade them if fees are involved. (ST\_SR\_04)*

However, information about different financial subsidy schemes might be accessible for the service providers only. They regarded that such information should be more useful to the users than the referrers as it would increase their motivation to use the service.

*I don't know much about the FC Pilot Scheme. I know some NGOs have been providing the service for a very low fee, and with experienced mediators, for more than ten years since the year 2000. My understanding is that the NGOs have funding from some organizations, and that's why they could maintain a relatively low fee. (ST\_SR\_02)*

*My colleagues don't know much about our funding sources. They only know if the charge is lower compared to the sliding scale related to salary. I don't know about the FC Pilot Scheme in 2014 either. (ST\_SR\_04)*

*NGOs could easily help those with financial difficulties. Therefore I think the focus should be on informing the low income parties that there are relatively low fee mediation service available in some of the NGOs. (ST\_SR\_02)*

Besides the above, some private practitioners commented that the financial subsidy schemes launched by the government or other funding bodies were very often targeted at clients of the NGOs and so they hardly shared in the resources. That might have two consequences. First, it might limit the users' options because the users will only seek services from the NGOs that offer a fee that is relatively lower than it would be in the private sector. Second, it might be hard for private practitioners to sustain the service due to the limited number of service users.

*The grassroots will select the NGOs but not our service. (ST\_SR\_02)*

*Many people have chosen NGOs for mediation already because the charge is low. I think it's fair for NGOs to provide services for those with low incomes. Yet if the parties could afford it, the mediation fee shouldn't be too low. Some mediators don't take many cases because the fees are too low. Mediators will not be able to get enough experience if they don't take more cases. It will affect the quality of the service in the end. So apart from helping the low income class, a fair charge should be set in order to maintain the standard of the mediation service. This can attract more people to do and provide the mediation service. This in turn helps the mediators get more experience and helps improve the quality of the mediation service. (ST\_SR\_02)*

*If the charge is too low, it's impossible for the mediators to make a living and no one will do it. Many people are accredited, but they don't take cases because the charge is too low. (ST\_SR\_02)*

#### 6.2.5.2.3.6 Quality of Family Mediators

The informants worked closely with some mediators and they treasured a family mediator who was pragmatic, skillful and impartial.

*It would be good for the mediator to be pragmatic. If the mediator knows that the couples cannot focus or compromise, he/she will know how to let go or spot the main focus. For instance, he/she can point out the clients' concerns accurately and know the weaknesses of the clients. In fact, both sides have their own weak points. The mediator could approach the couples through that if he/she understands what they want. (ST\_SR\_01)*

*If the mediator knows counselling, not only do they merely address the surface issue, they could also address the clients' underlying emotions and concerns. If they respond to the client's needs accurately, clients could then be relieved and inspired. That certainly is a good side effect of mediation. (ST\_SR\_03)*

*Some failed in the role as a mediator. I think they still acted as if they were solicitors, giving too many opinions. That's not appropriate. (ST\_SR\_01)*

Nevertheless, the referrers had diverse views on the quality of family mediators, depending on their experiences of collaboration with the mediators. As a result, the referrers tended to refer cases to a limited number of family mediators, particularly those with whom they had already worked for a period of time.

*I think the qualities vary a lot. (ST\_SR\_01)*

*I couldn't comment on the overall quality. I don't exactly know many of them. I believe those I know are capable of helping the clients. Whereas for those I'm not acquainted with, I'm not able to comment on their qualities. (ST\_SR\_02)*

*Some solicitors who know both laws and mediation are really helpful. In our field, we know whom to refer to. Though it appears to me that the referral is only made to those you know. (ST\_SR\_01)*

*Provided that the clients' backgrounds are known, I will refer them to the mediators I am familiar with. I know the mediator's background, training and values. (ST\_SR\_03)*

#### 6.2.5.2.3.7 Supportive Services

The informants indicated that the supportive services rendered by units such as the FMCO and the IFSCs played a significant role in facilitating the family mediation services. Overall, they regarded that the collaboration was smooth and positive.

*The Court has mediation co-ordination officers. When we file the petition, the client could choose if they would like to be contacted. If the client is fine with it, the client's address and telephone number will be sent to the officer. The officer will then invite the client and the other parties to the talk. If the parties are willing to have mediation, the officer will let the parties choose the mediator. We are not involved in the process. I think the procedures are quite smooth as it's the court's direction and it is easy to start the procedure. The procedure begins once the petitioner signs the certificate and the consent form for mediation. (ST\_SR\_05)*

*I believe the mediator can help the parties answer some of their queries and deal with their emotions. Even though there is the possibility that some emotions cannot be dealt with, the mediator can at least lead them to discuss rationally. After the discussion, the client sought my advice again and I could see that the client seemed to be more stable. I have found that mediation and counselling really worked well together. The client was in a frustrating situation before the mediation, with a high level of anxiety, and didn't know what to do. It was impossible to help her manage her deeply rooted problem....Mediation and counselling could work together as a partnership. (ST\_SR\_04)*

#### **6.2.5.2.4 Others**

A few informants had comments on the roles of different government departments / bureaux in the service co-ordination. At present, there are several government departments/ bureaux such as the Judiciary, the LAD and the HAB that are involved in family mediation services. Nevertheless, the informants revealed that their roles and responsibilities might not be defined clearly and overlapped. For instance, the legal aid recipients might choose litigation rather than mediation to settle divorce disputes because it was free of charge. After all, the government should have a clear stance on the service.

*What I'm talking about is the positioning of mediation service. Should we take it as a family welfare service or a community relationship issue to be handled by the HAB? We can see that divorce affects the family as a whole. If we split the service into two*

*departments, it will be difficult to plan. Maintenance is another issue. How should we view the issues led by divorce? (ST\_SR\_04)*

*Our clients are from the grassroots mostly. Clients from the grassroots may wonder if mediation is useful. The common saying is that if they could talk to each other, they wouldn't end up in divorce. If they couldn't talk to other parties, why spend money in mediation – something that might be useless? They would rather choose the legal aid service since it might be free. So our colleagues have queries about that: the government is funding a lot of things in the legal system right now. But if the government likes to promote a less adversarial way to solve the problem, should funding for mediation be provided? It remains questionable. (ST\_SR\_04)*

### **6.2.5.3 Overall Summary**

Currently, practice direction – 15.10 on Family Mediation is enforced to make the service an option for divorcing couples. The service referrers play a critical role in the success of the service because many users approached the service through referrals from professional practitioners like lawyers, social workers, and medical professions etc. In this study, many referrers recommended the service to their clients because they valued the service for divorcing couples and their children in terms of protecting child welfare, ensuring the sustainability of any agreement reached, and preserving family relationships, and particularly for those clients who were involved in child related disputes, had financial difficulties and had the motivation to choose a peaceful way to work out the solutions with their ex-spouse. The respondents indicated that they had a positive collaboration experience with the mediators. Nevertheless, they regarded that the existing service still have a lot of room for improvement with respect to service promotion, accessibility, financial subsidies, quality of services, supportive services, and the division of labour in different government departments / bureaux.

## 6.2.5.4 Service Providers

### 6.2.5.4.1 Views on the Service

Similar to the service referrers, the service providers asserted their beliefs regarding the value of family mediation to divorcing couples and their children. Some of the informants' affiliated organizations / units had been involved in the development of family mediation since the service was established.

#### 6.2.5.4.1.1 Development

They identified the advancements with respect to the service accessibility, financial subsidies, number of family mediators, and its integration with other services.

##### 6.2.5.4.1.1.1 Accessibility of the Service

Apart from the conventional way to promote the service, some informants perceived that the advancement of technology did increase the popularity of the service. For instance, the services in the FMCO were accessible to the public even though the users had not yet filed for divorce.

*You can get our pamphlets online and from many places. Sometimes, if you search "mediation" online, you will be able to search our website and find our organization. You don't even need to have a petition at all as you can just call us directly. We are quite open to the public. Although the pamphlets mention that it is for court service users, it is just because the certificate must be submitted by the court, but actually our services are open for all to use. (ST\_SP\_01)*

##### 6.2.5.4.1.1.2 Availability of the Financial Subsidy Scheme

In Hong Kong, family mediation services are mainly funded by government subsidies such as the FC, private funding sources such as the Jockey Club and the Community Chest, or are self-financed. They perceived that the FC's pilot scheme was a good start for the government to share in the financial responsibilities of the service. Even

though some service heads realized that it was not a long term funding, they still participated in the scheme to maximize the benefits to the users, particularly the low income group. However, they expressed concern about the funding sources because all of these resources are short-term and project-based.

*It's good to join the FC subsidy scheme. It's good that the government has that incentive. If my memory's correct, it's the first time. (ST\_SP\_03)*

*Looking at it from the family perspective, it should be supported. So we try to provide some funding, though not much. Even though family mediation is not within our ambit, it's good for the family. That's why we set up the scheme. (ST\_SP\_05)*

*The HAB has taken its' first step in sponsoring the family mediation services. So we are starting from zero, but at least it's a stepping stone. We could not really say what will come next. Nevertheless, if the scheme continues, the low income families will benefit. They won't be ruled out from using the service because of not having money. (ST\_SP\_02)*

*The Jockey Club might not provide funding forever. You just get the funding in a certain period. If there's no funding from the Jockey Club, the funding from the HAB can fill the gap in the meantime. (ST\_SP\_03)*

#### 6.2.5.4.1.1.3 Increasing Numbers of Family Mediators

The service is growing in popularity as indicated by the increase in the number of family mediators. The service has become more accessible to the public as the users could choose a family mediator through various channels such as the panel lists of the FMCO and the HKMAAL. The parallel service delivery model is advantageous. Many people disliked the adversarial atmosphere in court and they preferred to settle their divorce disputes in a harmonious way.

*The number of divorce cases has increased a lot in the last ten years. Nevertheless, it seems to me that the number of cases we received hasn't actually increased a lot. As we could see, there have been more family mediators in recent years. Let me say, the number of mediators has doubled. About ten years ago, there were only around a hundred family mediators. Now we have more than two hundred. I think there are too many family mediators. The mediators could work in some NGOs in the community so people could*

*use the mediation service in the community directly instead of getting into court first. Actually, I think there is an advantage since the atmosphere is more confrontational in court. If people could have mediation in the community before they petition for divorce, their relationship might get better, even after a divorce. (ST\_SP\_01)*

#### **6.2.5.4.1.1.4 Service Integration**

Some NGO administrators attempted to integrate family mediation services into other family services such as counseling and child visitation centers, etc. in order to provide a one-stop service for divorcing or divorced couples and their children. Although it was only in a trial period, they believed that it was one of the best options as it could provide a comprehensive service for the users.

*So, the co-operation is that we work as caseworkers and there is a mediation part that is neutral. Thus, co-ordination can be had in between. With the aid of a visitation centre like the Po Leung Kuk Tsui Lam centre, which helps to arrange meetings with children, the facilities are actually there. If this is the case, it is a very comprehensive service, which consists of caseworkers who mainly take care of welfare needs, a neutral person who is responsible for the service, and the visitation centres at the same time. (ST\_SP\_04)*

*If it is family mediation only, we hope that it will mainly serve as a one-stop service. Of course, this perfect stage hasn't been achieved yet. For instance, the IFSC is community based and they have close contact with people in need. It is hoped that cases will be referred for mediation once they are detected. Alternatively, if we have some mediation cases that require assistances from the IFSC, we will then refer them to get the IFSC's resources. (ST\_SP\_03)*

#### **6.2.5.4.2 Difficulties**

The informants regarded that they had faced some difficulties with providing the service, which included the lack of a long term financial subsidy, an uneven case distribution between the public and private sector, a heavy caseload from the IFSCs and a fragmentation of services.

#### 6.2.5.4.2.1 Long Term Financial Subsidy Schemes

Some informants pointed out that many NGOs relied heavily on private funding sources which were short-term and project-based. The lack of a long-term funding source for mediation service prevented the agency from giving its development a high priority, and in return, that affected the commitment of the professional staff to the service.

*My boss thinks that it is not the priority. Actually, some colleagues claimed that they are interested. However, the problem is that the mediation course is quite expensive. If the organizations don't think that it is a priority, I will naturally not fully subsidise you to do this thing. I cannot generate a huge caseload at all! Although there is strong competition between solicitors and there is a demand for it, the problem is that the demand is not so high that it can sustain the service. Besides, I want to point out that everyone can be accredited to be a mediator so the professional qualification is not that useful. You cannot get more wages or get a promotion with it. In addition, it seems like it is not a specialized service. You don't really have a strong interest in joining it. Indeed this will be relatively difficult for us. (ST\_SP\_04)*

Regarding the short-term based financial subsidy scheme like the FC Pilot Scheme, the respondents revealed that much time and energy had been used to handle issues such as recruiting suitable service recipients and tackling administrative difficulties, which might not be cost-effective and efficient.

#### 6.2.5.4.2.2 Serving Targets

As the scheme was targeted at the low income group, some NGOs had difficulty identifying the users, and this resulted in underutilization of the funding. The private sector was unable to share in the resources as most of their service targets were middle class people.

*So, we want to do that when we tell the HAB that we will do it. Our main task is to serve those with low income. However, we could not serve so many cases and it turns out to be our problem. Perhaps our promotion is inadequate. I think it could get better if the promotion is better. (ST\_SP\_03)*

*It is because many NGOs....as far as I know, the applications [for the scheme] are from NGOs mostly. Nevertheless, even though the NGOs do not have the scheme, they might have other funding e.g. the Jockey Club. This funding source can subsidize the people with low incomes because the charge is based on the income level of people with low incomes. (ST\_SP\_03)*

#### 6.2.5.4.2.3 Administration Difficulties

The service providers encountered many administrative difficulties with the scheme. Some informants said that the subvention criteria were quite rigid so that they needed to spend a lot of time on assessing the eligibility of the users. However, the subsidy supported direct service and did not provide much support for assessments. In addition, the methods for calculating the total expense per case were tedious and complicated, resulting in spending much time and energy to handle this issue. Overall, they found that the administrative cost of fulfilling the requirements of the funder was too high.

*If you spent too much time on assessment, the HAB will not like it. They want us to provide direct service. But the selection criteria for the service targets are very detail so that we have to spend a lot of time on assessment. Anyway, it is hard for us to fulfill their needs. We have to explain a lot during the process. (ST\_SP\_03)*

*Some of their regulations are quite rigid. They always calculate the fee precisely, e.g. the service charge for 45 minutes and the high cost of paper work etc. It is quite annoying for us. (ST\_SP\_03)*

*You have to pay for every hour. Actually, I started to think about whether the administrative charge is very high. I calculate a lot each season and a few people check it. When I get there, the people there will check it too. After checking, they said that there was something wrong so I had to check it again. Thus, I think that the administrative fee is actually very high. However, I understand that. After all, it's the government's money and everything has to be charged. Nevertheless, you feel pain when they charge you like that. (ST\_SP\_03)*

*NGOs will claim back some reimbursement. Therefore, the administrative work is much better because we really have to check each individual case. It is quite time consuming and some of the jobs are quite tedious. (ST\_SP\_06)*

#### 6.2.5.4.2.4 Uneven Case Distribution

The service was provided by both the public and the private sector in the community and the users had full autonomy to access the service from either sector. As it was revealed that most of the divorcing couples who used the service were not given financial consideration, most service users preferred to use the service of the NGOs, which had a relatively lower charge when compared to the private sector. As a result, while the NGOs might have many cases and a long waiting list, the private sector found it was hard to survive in the market.

*For example, we can see that people frequently choose the mediators who charge them more reasonably. However, if all people choose this kind of mediator, their availability will become low as everyone opts for them (a long queue for the service...) (ST\_SP\_01)*

#### 6.2.5.4.2.5 Overloading of the IFSCs

Currently, there are only few NGOs that are able to run a specialized center for family mediation due to the limited funding sources for the service. In some NGOs, social workers, who are also a qualified family mediator, will render family mediation services as an added value of the IFSCs' services. However, the heavy caseloads of the IFSCs prevented the social workers from giving family mediation in high priority or involving direct practice actively.

*Frankly speaking, after transferring to work in the IFSC with my fellow senior colleagues, we discovered that many cases did not need mediation. Many of the cases were welfare cases. Consequently, we did not extend our mediation licenses as we didn't have that type of case to do. Honestly, the new colleagues might also not be interested in the mediation service. That explains why our progress had stopped, that is, we no longer trained our own mediators every year. Because of some limitations in the funding sources, you have to meet certain service targets. This is quite a problem in the IFSC because much attention will be drawn to dealing with the family issues happened in our serving district but these issues might not be solved by mediation. In other words, mediation is not the top priority. Instead, compassionate rehousing and parenting (or marital counselling) are among our top priorities. Thus, there are fewer family mediation services right now. (ST\_SP\_04)*

#### 6.2.5.4.2.6 Overseeing the Service

Many government departments / bureaux were involved in the governance, co-ordination and monitoring of the family mediation services and that caused the service to become fragmented. The informants regarded that it was pivotally necessary for the government to head up, oversee, plan and monitor the service. For instance, the government could monitor the service in such a way that there is an equal share between the public and the private sector.

*In my view, it is extremely fragmented. Everybody just does his own job. I have once been to the government and found that it was important for the government to lead and take the first step. The Singaporean government insisted on using mediation to deal with some issues. Firstly, they did not encourage you to file for a divorce. Secondly, even though you had to divorce, you still had to use mediation. The reasons were that it was the cheapest way and it was relatively peaceful. Thus, we could definitely take references from Australia and Singapore. You use a platform to view the whole issue. Then, you divide the duties clearly i.e. some could be done by solicitors whereas some could be done by NGOs. In this way, the citizens can have options to choose from. (ST\_SP\_03)*

*I think the mediation service is a good service that could resolve the conflicts of high-conflict couples, which occur during the divorce process. I also believe that the time used in court can be reduced. The resources are very useful from perspective of justice. I wondered which direction, among these options, i.e. the resources, the inadequacies and the latest developments in mediation, will be adopted. I think that these different options should be determined by the clients. It should not be compulsory in the end. We should not just do it by trial and error, piloting and researching continuously. Instead, we have to speak out clearly. (ST\_SP\_04)*

#### **6.2.5.4.3 Suggestions**

In relation to solutions to the difficulties, the informants shared the following views.

##### 6.2.5.4.3.1 Financial Subsidy Scheme

To resolve the current problems with the modes of financial subsidy, some informants have suggested releasing the eligibility criteria for the service targets and providing permanent subvention posts for the NGOs.

#### 6.2.5.4.3.1.1 Release the Eligibility Criteria

Family mediation requires a good partnership between divorcing couples and so the subvention should be expanded to the ex-spouse in order to increase their motivation to seek the service. Besides that, a subvention for the middle class should be highly considered because, in our society, they were very often marginalized by many schemes for providing financial support, such as the legal aid scheme.

*In the past, there was a one-year pilot scheme related to legal aid... At that time, legal aid was also available to the other spouse (the fee) even though he/she hadn't applied. Why? The LAD said that they wanted to encourage the other side to use mediation. When they try to put it into practice, the other side might think that they will not get subsidies if they file a lawsuit whereas they can be subsidized if they opt for mediation. In addition, the success rate for mediation is quite high i.e. around sixty percent. They will end up choosing mediation. (ST\_SP\_01)*

*Take income level as an example. In fact, many middle class people suffer a lot. You might not have a low income. I think the scope should be widened. (ST\_SP\_03)*

#### 6.2.5.4.3.1.2 Subvention of a Permanent Post

A subvention of permanent family mediation posts would serve to secure a continuity of the service.

*Will it be like our funding, i.e. just like the social welfare department supporting you as a social worker? Then, you are required to achieve several outcomes in a year. It's simple. (ST\_SP\_03)*

#### 6.2.5.4.3.2 Standardization of the Training

The quality of family mediators was the essence of the success of the service and thus a standardization of the training was deemed necessary.

*It is better to have a standard of training in family mediation. If somebody conducted a course on family mediation, we do not really know the standard. If it is governed by a single professional body, the quality is guaranteed. Therefore, if there is a standardized mechanism, it will safeguard the users and our society. (ST\_SP\_01)*

#### 6.2.5.4.3.3 *Oversee the Service*

An informant regarded that the key concern for the future development of the service was the stance of the government on the service. Instead of considering whether or not the service should be mandatory, it would be worthwhile to re-think the roles and the responsibilities of the government in the service first. A clear stance and long term planning for the service were the prime concerns.

*Actually, I do think that we don't have a clear stance on the nature of mediation in Hong Kong, whether it is a social service or a paid service. If you ask me if it should be a profit making service, I think it is okay. Currently, the FMCO has a panel list of family mediators and the users have autonomy to choose a family mediator. However, we must have a clear direction for future development. It is quite meaningless to keep on doing research or pilot studies. We have to set a clear policy direction. (ST\_SP\_04)*

#### **6.2.5.4.4 *Overall Summary***

The feedback of the service referrers confirms that family mediation has undergone a continuous development since its establishment. With the joint effort of various departments, organizations and associations in the public and the private sector, the service have improved in popularity, accessibility and availability to divorcing couples due to technological advancements, the expansion of financial subsidy schemes, the increase in the number of family mediators and the better integration with other services. Nevertheless, the respondents pointed out several areas for improvement with regard to financial subsidy, caseload distribution, training and service co-ordination. Indeed, these areas are inter-related. Without a department / bureau to head up family mediation with a clear stance on the direction of the service, it is difficult to have long-term planning and good service co-ordination.

## **CHAPTER 7: DISCUSSION AND LIMITATIONS**

### **7.1 The Societal Effect of Family Mediation**

The findings of our research indicated that the family mediation services in Hong Kong has resulted in various positive societal effects which are consistent with the evidence revealed from experiences in various contexts in different countries.

The survey showed that family mediation services reduced the cost to the couple as well as the cost to society. The service users reported that less time and money were spent on resolving disputes through family mediation compared with that spent using litigation. With regard to the duration of the mediation, nearly half of the respondents (51.7%) attended one to two individual sessions, and over 70% of them attended one to four joint sessions. Regarding the mediation fee, nearly half (43.6%) of the respondents used the mediation service free of charge and less than ten percent (9.8%) paid \$501 or above for the service.

In spite of the different socio-economic backgrounds of the service users, the survey showed that they were highly satisfied with various aspects of the family mediation service, including (i) the outcome of child custody (Mean=4.98)<sup>101</sup>, SD=.79, (ii) the outcome of finance and properties (Mean=4.65, SD=1.06), (iii) the communication and negotiation process of the mediation (Mean=4.98, SD=.71), (iv) the mediator's knowledge, skills, and attitudes (Mean=5.31, SD=.63), and (v) the information, charges, duration, and coordination of the mediation service in general (Mean=5.20, SD=.61). As

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<sup>101</sup> The full score is 6.

shown by the median of these five dimensions, which ranged from 5.00 to 5.38, most of the respondents rate the items as “moderately satisfactory” or “strongly satisfactory”.

From the perspective of the service users, there were various advantages to using family mediation compared to the use of litigation in resolving divorce-related disputes. Both the FC-sponsored cases and the non-sponsored cases commented that the family mediation services were efficient and cost-effective, helpful and humane in facilitating the settlement of disputes peacefully and constructively. The users appreciated the mediator’s role as a caring companion possessing rich information and a thorough knowledge of mediation. With an agreement reached and the disputes settled, the relationships between the divorcing couples got less intense and they could co-operate as parents after the divorce. As a result, the parent-child relationships were able to be restored and the children were observed to adjust well to the family transition. Similarly, the non-service users, who adopted litigation as their approach to resolving issues pertaining to divorce, also pointed out they would have preferred family mediation if they had known of the availability of the service. They perceived that a peaceful means of settling their disputes was beneficial in terms of alleviating their distress and gaining co-operation in parenting.

The positive effects of family mediation were not only experienced by the service users but also validated by the mediators and the stakeholders (i.e., service referrers and service providers). They found that the divorcing couples found relief and were better prepared to move on after the release of emotions at the sessions and during the settlement of disputes. The mediators responded sensitively to the users’ emotional needs, educated them in divorce procedures, informed them of their rights and responsibilities,

coached them to communicate and negotiate with each other, and encouraged their autonomy in decision making. The mediation process laid a good foundation for the divorcing couples to be able to co-parent during the post-divorce stage. At the same time, some mediators also included the children in the mediation process to understand their needs and to provide emotional support and guidance to them. The parents were also educated in the importance of explaining the divorce to their children sincerely, and assuring them of continuing love from both parents in spite of the divorce, which was of great help to children trying to adjust to the family transition.

Family mediation, as an alternative form of dispute resolution with its helping focus on the interpersonal relationship, has a special value in helping divorcing couples to resolve their disputes and relevant issues. Besides the benefits of saving time and money for the couple and society, its most distinguished value is its positive effect on the various relationships of the family. In particular, the mediation process, both the individual and joint sessions, is a viable means to strengthen spousal relationship quality and reduce psychological distress. As indicated in our findings, it works in a way that promotes communication by helping both parties to understand each other's standpoints, and process things calmly and rationally. This study provides rigorous evidence supporting the potential advantages of family mediation in helping divorcing couples learn to work together and develop skills for resolving future disputes, promoting cooperation and preserving trust among family members during the post-divorce stage, thus reducing further stress among family members<sup>102</sup>.

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<sup>102</sup> Curtis, F. A. & Bailey, B. (1990). A mediation-counselling approach to marriage crises resolution. *Mediation*

## 7.2 Popularity and Utilization of Family Mediation in Hong Kong

Although the family mediation services have been launched in Hong Kong for more than three decades, they are still not widely utilized. For instance, in 2013, the utilization rate was relatively low when compared with the overall divorce rate in Hong Kong. While the number of divorce decrees granted reached 22,271, with the crude divorce rate reaching 3.1 per 1000 people, only 235 cases were referred to mediators by the FMCO<sup>103</sup>.

One of the barriers to using mediation as revealed in the study was the lack of public recognition of the service or the lack of access to the service in the community. The service users and the non-service users regarded that they had little knowledge of the functions, the availability and the accessibility of the service. This phenomenon was evidenced by the findings in the survey that showed most of the users were referred by either the family court (32.7%) or social workers (22.9%). Promotional materials such as leaflets, pamphlets, or websites as the source of information only accounted for a small proportion (15.6%). This may reflect the fact that many users were informed of the service rather than having learnt of the service themselves. On one hand, it shows that the service relied heavily on referrals from legal or social work professionals. On the other hand, the limited channels for obtaining relevant information available to the potential service users may have contributed to the low utilization rate of the service.

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*Quarterly*, 8, 138.

<sup>103</sup> Hong Kong Judiciary (2016). *Mediation Figures and Statistics*. Retrieved from [http://mediation.judiciary.gov.hk/en/figures\\_and\\_statistics.html](http://mediation.judiciary.gov.hk/en/figures_and_statistics.html)

Furthermore, the qualitative feedback of some service users and non-service users indicated that there was a misunderstanding over the functions of family mediation. They regarded that family mediation was similar to marital counseling or family therapy and expected that the mediators would be able to repair their marital relationship. The findings from the interviews with some mediators, service providers and stakeholders further confirmed there was such misconception among their clients.

Not only the general public but also some service referrers lacked relevant information about family mediation in terms of its locations, the content and the mediation process. Given that service referrers play a key role in service promotion, the difficulties encountered by them may have led to an under-utilization of the service.

Another barrier to the use of the service as indicated in our study was the quality of the current relationships of the divorcing couples. Family mediation requires the active involvement of the divorcing couples with the aim of reaching agreement by consensus and so the quality of their relationship, such as whether they basically trust and respect each other and are willing to cooperate with each other, becomes a key factor in their decision to use the service. As commented on in the study by the non-service users, the uncooperative attitude of their ex-spouses was one of the hindrances to their using family mediation. The mediators also considered that the quality of the relationship of the divorcing couples was the major factor influencing the progress and the result of the mediation. Those divorcing couples who try to use mediation to resolve divorce-related disputes indicated that that they still have a basic trust of and respect for each another. However, the divorcing couples who are overwhelmed by negative emotions such as rage

and hatred, so that their communication is very deconstructive, are less likely to choose mediation and would rather choose to use an adversarial means to work through their disputes.

### **7.3 Financial Subsidies**

Family mediation is a fee-charging service with the charges ranging from free to a few thousand HK dollars per session. The users who could afford the charge would pay for the service while those of low income would apply for financial support from various funding bodies. Currently, the subventions mainly come from the government, subsidised by the LAD or the FC, or private funding sources such as the Jockey Club, the Community Chest, and the agency.

Our study indicated that such subventions were mainly given to the low income groups. The data of the FC Pilot Scheme indicated that the main users of the scheme were those who had a monthly income below \$10,000, composing a majority of female service users who were either welfare recipients or full time home makers. In the survey, we also found that the financial subsidy had a differential effect on the service users' satisfaction with the logistic aspects of the service. It showed that the respondents who paid lower mediation fees or got subvention were more likely to be satisfied with the charges, the duration of the mediation and the service coordination, and those who paid a larger sum of mediation fees expected the service to be less expensive and more time saving. Nevertheless, when we cross-tabbed the mediation fee and their level of satisfaction level with the charge, the respondents who paid either less than \$200 or more than \$500 tended to be moderately satisfied with the charges, while those who paid \$201-\$500 have larger

variations on this question. We inferred that those who paid \$201 - \$500 were more likely ineligible for a subsidy and paid a fee based on their income level. The result might show that the users who have either a low or a high capability of paying the mediation fee, but not those who were in the “sandwich” class, felt more satisfied with the charges. Actually, this result was consistent with the comments of some mediators in the interviews that the subsidy schemes were usually helpful for those who are very poor but not those families of the working poor or some middle class families with relatively heavy caring and financial burdens. Apparently, one of the important reasons for people to choose family mediation rather than litigation to resolve disputes pertaining to divorce is to save money. Our study revealed that the charge for family mediation, which is relatively low when compared with litigation, was affordable for the low income group who got financial support from various schemes, or for the well-off. However, the “sandwich” class who were not eligible for the subsidy might have found it a financial burden even if they paid only a few hundred dollars for each mediation session.

The FC Pilot Scheme was a good start for the government to share the financial responsibility for the service. It covers remuneration to the mediators, which was calculated on the basis of an estimated hourly rate of \$450 with a ceiling of 24 hours (16 hours for the mediation services, plus another 8 hours for preparation and other logistic support). However, the current subsidy scheme is short-term, project-based and insufficient to sustain the service. The NGOs that provide the family mediation service could hardly see a clear prospect for the service with such a subsidy mode.

As for the funding from the LAD, it covered a ceiling of 15 hours of service, which was even, less than the subsidy provided by the FC Pilot Scheme. If the mediation hours exceeded the ceiling hours, mediators were requested to justify it and apply for approval from the LAD<sup>104</sup>, which might increase the administrative burden on the mediators as revealed by some comments of the informants in this study. At the same time, some mediators and service referrers raised a concern about the ambivalent messages conveyed to the legal aid recipients who were suitable for family mediation. On one hand, they were encouraged to use a peaceful way to settle the disputes. On the other hand, they settled the disputes through litigation procedures with the financial support of the government.

The study indicated that there was an overuse of the service in the public sector and an under-utilization of the service in the private sector as revealed by the uneven caseload distribution of two sectors. The high proportion (96.59%) of the respondents of the survey coming from the NGOs might affirm the fact that it was difficult to find and identify private cases due to their limited numbers. The service users tended to choose the service provided by the NGOs as they offered a relatively low price when compared with the private sector. Some stakeholders indicated that this unequal share of the market might result in a long list of cases waiting for the service provided by the NGOs or the private sector having difficulty to recruit sufficient clients to sustain the service. As a result, some private practitioners expressed their uncertainty towards the prospect of the service.

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<sup>104</sup> Hong Kong Legal Aid Department (2013). *Legal Aid Department Annual Report*. Retrieved from [http://www.lad.gov.hk/documents/annual\\_rpt\\_2013/eng/aid.html](http://www.lad.gov.hk/documents/annual_rpt_2013/eng/aid.html)

## **7.4 Quality of the Service**

The high quality of the service in terms of the mediators' professional competence was confirmed by the outcomes of the FC Pilot Scheme, and the findings of the survey and interviews. According to the statistics of the FC Pilot Scheme, the success rate for achieving full agreement rose from 37.34% in 2012 to 47.83% in 2015. Meanwhile, the rate for achieving no agreement dropped sharply from 43.67% to 23.91% accordingly. The findings of the survey and the interviews indicated that the service users' level of satisfaction with the service was high. In general, they gave a positive appraisal of the professional attitude, knowledge and the skills of the mediators as mentioned in the section on the value of family mediation.

Nevertheless, the service referrers made various comments on the performance of mediators. They had a diverse view of the quality of family mediators, depending on their experiences of collaborating with the mediators. The referrers usually did not have a comprehensive picture of the quality of the mediators because they found it hard to obtain information about mediators' performance unless they had previous experiences of collaborating with them. As a result, they tended to refer cases to the family mediators with whom they had already worked closely. Again, it could cause an imbalance in the workload among mediators and the service users might have to wait for a long time for the service.

Currently, we have no single professional body to standardize the professional standards of family mediators, though the HKMAAL was established with this intention in 2012. Even though the majority of the mediators in Hong Kong are on the panel list of

the HKMAAL, there are still other panel lists that are available in other associations such as the LSHK, the HKBA, the HKMC, and the CRC etc. All the mediators in this study were on the panel list of the HKMAAL, but none of the informants came from other professional bodies. In this case, it was hard to form a comprehensive picture of the overall qualities of mediators in Hong Kong.

In addition, the service co-ordination in different government departments or bureaux was a concern raised by some informants in this study. The qualitative findings show that the comments regarding service provided by different government departments were varied. Whereas most service users and mediators highly appreciated the service provided by the FMCO with regards to the service quality and the efficiency of referrals, a few of the mediators appraised the administrative procedures set by the LAD negatively. Furthermore, some stakeholders regarded that the current service lacked a bureau or government department to oversee, plan and monitor the service.

Besides that, many mediators, stakeholders and service users pointed out the need for support services during mediation and at the post-divorce stage. These supportive services might include services to help divorcing / divorced couples to cope with stress during the divorce and the post-divorce stage, and the provision of tangible services such as housing and finance, and services to enhance their co-parenting, as well as services for children such as counselling and play therapy. While these services are currently provided by the IFSCs according to the service needs of the service users, they should be promoted to service users and provided as routine services in the IFSCs.

## **7.5 Compliance with the Agreement and Re-litigation**

The actual situation regarding compliance with the agreement and re-litigation were not indicated clearly and fully in this study for two reasons. First, the mediators found it difficult to provide such information because it was their usual practice to close a case once an agreement was reached and had been reported to the court. They have seldom contacted the users except for some occasional informal contacts. Second, most user informants had just finished the mediation when they participated in this study and they did not know whether their ex-partner would comply with the agreement or not. Nevertheless, in this study we got some insight into the service users' confidence levels and the difficulties they anticipated with their ex-partners complying with the agreement. In addition, some experienced mediators revealed some risk factors that lead to the failure to reach an agreement and the key difficulties the parties have with complying with their agreements.

In the survey, we found that the respondents' confidence level regarding the compliance of their ex-spouses with child custody arrangements and financial allotment was quite high, with the mean scores of 4.83 and 4.82 respectively, indicating that respondents on average agree with this statement. However, when taking demographic variables into the analysis, we found a negative correlation (-.183\*) between the users' educational level and the satisfaction with the settlement of child related issues. In other words, parents with higher educational levels may have less confidence in their ex-spouses' compliance with the agreements. It is possible that parents with higher

educational levels are more aware of their children's developmental needs and have higher expectations for cooperative parenting.

In the interviews with the service users, some pointed out their worries about the compliance of other party, particularly in the areas of the timely provision of alimony for children or ex-spouses, and the children's living and visitation arrangements. They also raised the concern that the clauses of the agreement would be irrelevant to the developmental needs of the children when they grow up. Consistent with the service users, some mediators regarded that the most common situation involving non-compliance was in relation to children's issues and this information was obtained through their occasional follow-up after the mediation. It could be explained by the fact that child-related issues such as alimony and childcare arrangements were ongoing while property or accommodation was a one-shot settlement. They were easily influenced by some situational factors such as a change in the ex-spouses' financial condition (e.g., unemployment), living place (e.g. migration) or marital status (e.g., remarried) as well as the changing needs of children (e.g., children transit from childhood to adolescence leading to an increased financial demand). As a result, the risk of non-compliance was high.

## **7.6 Children's Inclusion in the Family Mediation**

The findings elicited from the child informants asserted the fact that parental divorce has a negative impact on children's growth and development, specifically in the physical, psychological and social aspects. From the perspectives of the service users and the mediators, family mediation has brought about some positive changes in the children

both in tangible (e.g., child care arrangements) and intangible (e.g., children's psychological distress) areas. The common concern of the divorcing couples about the welfare of their children could be the reason why there was a relatively high rate of full agreement on child-related disputes such as childrearing and childcare arrangements (78%) and living expenses for child(ren) (74.8%) as indicated in the survey. In addition, both the mediators and the service users revealed that family mediation could prepare parents to be responsive to their children's needs and set a good platform for co-parenting in the post-divorce stage.

From the perspective of the children, they considered that family mediation was helpful to them for alleviating the stress of their parent's divorce and also helpful to their parents as their parents could communicate better after mediation. Those children who attended the joint mediation meetings provided valuable insights on some do and don't when mediators include children in mediation. For instance, mediators should inform the children of the mediation process in detail, care about their feelings and avoid asking them to state preferences in front of their parents.

Notwithstanding the above, most mediators did not seek the views of children directly and only a few of them involved children in the mediation process. We found that only 2 out of the 10 children interviewed in our study were involved in the mediation. Mediators usually involved children who were older and were mature enough to make decisions on their own. Although the mediators perceived that it was worthwhile to listen to children's voices when settling child-related disputes in mediation, they were concerned about the effectiveness of engaging children and concerned that it might cause

potential harm to children if they were involved in the mediation. In particular, most mediators have very limited experience of working with children. They realized that the current mediation training was insufficient in this area.

As the second public consultation on the draft of the Children's Proceedings (Parental Responsibility) Bill has just finished (March 2016), the public was supportive of the concept of parental responsibility in general. The emphasis on "parental responsibility" has provided a good foundation for divorcing couples to discuss their child issues in a harmonious way. The new paradigm may have the effect that more divorcing couples will choose a peaceful way to settle child-related issues through family mediation. To respond to this new paradigm and to work harder for children's well-being, the mediators should get themselves prepared for the new challenge that will be involved in bringing children's voices into the mediation process.

### **7.7 Limitations of the Study**

In this study, we lack a sampling frame because we are unable to obtain a full list of service users from the Family Court Registry due to concerns about confidentiality. Therefore, we adopted a purposive sampling using a non-probability sampling method in the survey and in the interviews. The respondents of the survey from the FC-sponsored cases and the non-sponsored cases are mainly from two NGOs that may be quite similar in profiles and their experiences with family mediation and thus it is hard to make it representative of Hong Kong as a whole. Moreover, the informants of the interviews were

mainly recruited by the mediators and joined the study on a voluntarily basis. It may involve a selection bias, as the informants may tend to be satisfied with the service.

In addition, only a limited number of service users and their children from the private sector have been included. This may miss some distinctive information about the users' profiles and their service experiences in the private sector. Fortunately, we recruited quite a number of mediators and stakeholders from the private sector and that may fill the gap in knowledge of the mediation practice in this sector.

Last but not least, this study is cross-sectional and does not provide any follow up study. Therefore, issues occurring during the post-mediation stage such as compliance with the agreement and re-litigation, and the long-term impact of mediation on divorced couples and their children etc. are hard to uncover.

Considering the limitations outlined above, and for the future development of family mediation in Hong Kong, the research team regarded that the future direction of the study should include an increase in the size of the samples of service users and children in the private sector and conduct a panel study that explores issues such as the service user's compliance with any agreement reached and the sustainability of the effects of family mediation as well as the long term impact of family mediation on the well-being of the children of service users etc.

## **CHAPTER 8: RECOMMENDATIONS**

Based on the findings in this study, the research team has made the following recommendations to improve the future development of family mediation in Hong Kong. The new service delivery process is illustrated in Appendix XIX and Appendix XX. When compared with our current practice, the children’ welfare and their involvement in family mediation, the financial subsidy model, the services collaboration and the quality of services are strengthened in the two proposal models. The major difference of Option 1 and Option 2 are in relation to the financial subsidy model. Details are described as follow.

### **8.1 Mandatory Information Session for Divorcing Couples**

Family mediation should be promoted further due to its being of high value to divorcing couples and their families. Currently, it is stipulated in Practice Direction 15.10 that “when a person consults a solicitor and decides to institute Matrimonial Proceedings / Family Proceedings, the solicitor shall advise that person of the availability of the family mediation service and how it may assist in the proceedings, and shall give to that person the Leaflet [as prepared by the FMCO] on the service”<sup>105</sup>. To maximize the use of the service and to ensure divorcing couples and their children are aware of the benefits of family mediation, apart from being given the leaflet, a person who has filed a divorce petition in a Hong Kong Court and has child-related disputes pertaining to a divorce should attend a mandatory information session on family mediation. This would be

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<sup>105</sup> The Judiciary (2016). *Practice Direction – 15.10*. Family Mediation. Retrieved from [legalref.judiciary.gov.hk/Irs/common/pd/pdcontent.jsp?PD15.10.htm&lang=EN](http://legalref.judiciary.gov.hk/Irs/common/pd/pdcontent.jsp?PD15.10.htm&lang=EN)

similar to the practice of Courts in Canada wherein the court has provided a mandatory education seminar for all those proceeding with a divorce and lawyers are required by law to describe mediation as a possible option for resolving marital matters<sup>106</sup>. The rationale of offering a mandatory information session for divorcing couples who are involved in child-related disputes is to emphasize their parental responsibility. The main purposes of a mandatory information session are to help divorcing couples have a better understanding of the impact of divorce on themselves and their children, acquire more information about the potential alternatives and their different effects on the resolution of their disputes, and gain a better knowledge of the content and function of family mediation. As a result, this can minimize the negative effect of divorce on adults and children, clarify the functions of family mediation and boost divorcing couples' motivation to use the service. The practicability of a mandatory information session in Hong Kong is supported by the fact that many divorcing couples are highly concerned about the welfare of their children, as indicated in this study. In other words, most parents are prepared to join a mandatory information session out of their concern for their children's welfare. The information session could be organized, implemented and delivered by the FMCO as its staff has already had rich experience in this area. Through the briefing session, the attendants can obtain accurate information about family mediation and may consider using the service as an alternative way to settle their disputes.

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<sup>106</sup> *Mandatory Information Program (Ontario)* (2016) Retrieved from <http://www.justice.gc.ca/eng/fl-df/fjs-sjf/view-affic.asp?uid=323>

## **8.2 Long-term Financial Support for Family Mediation Services**

As revealed in this study, the current short-term and project-based subsidy mode of the government not only leads to high administrative costs but also becomes a barrier to the NGOs' further developing the service. To secure a stable and long-term service and to achieve a better service integration between the mediation and support services for divorcees and their children, the government may consider providing a long-term subvention to the NGOs that have already had considerable expertise in family mediation. The government may take into account factors such as years of operation, the quality of the service, and the availability of support services for divorcees etc. when allocating the amount of resources given to the NGOs. A long-term subvention would help the NGOs develop sufficient human and other resources for providing the service, allowing them flexibility in resource distribution and in service development that can be based on the changing needs of society.

In addition, the government may consider adopting a “money follows the user” model, which means that subvention is provided to the potential service users (like legal aid recipients) who may choose to use either the service provided by the public sector or the private sector. On one hand, the service users can optimize their choice of services and on the other hand, it may lead to the full utilization of the services rendered by both sectors. Eligibility could be determined by adopting criteria from a means test mechanism, but that may be beyond the scope of the discussion in this study. However, the needs of the working poor and the “sandwich” class should be taken into serious

consideration as these classes are always left out of the welfare system where eligibility criteria are concerned.

### **8.3 Inter-sectoral Cooperation and Collaboration**

Currently, family mediation services are delivered through a collaboration of different stakeholders. Whereas family mediators are the key service providers, the service is supported by various government departments with distinctive roles and responsibilities including service provision (e.g., the court-based service provided by the FMCO of the Judiciary), funding sources (the LAD and the FC of the HAB) and service referral (e.g., the SWD, the LAD). Family mediation should be headed up by a government department or bureau that will oversee its service planning, development and co-ordination.

As family mediation is one of the array of court services provided by the Judiciary, a close collaboration with the department to oversee family mediation is needed to enforce the current parallel/pluralistic service delivery model.

With regard to providing the service, since 2000 Hong Kong has adopted the pluralistic service delivery model. A similar model has been adopted in Canada, Australia, Singapore and New Zealand but they have different characteristics with respect to the partnership between the court and service providers in the community. While the court in Australia and New Zealand plays the role of providing information and briefing the divorcing couples regarding the alternative of using dispute resolution as well as making an assessment and referral for them, the courts in Canada and Singapore provide the mediation service or intensive information sessions for the family directly. We think the

current practice and division of labor between the court (i.e., the FMCO) and the service providers (i.e., private and public sector in the community) in Hong Kong should be maintained because such a model can increase the accessibility of the service as divorcing couples can obtain the service through different channels. Also, divorcing couples can use the service from different sources based on their needs and situations. Some divorcing couples may want to use the service through a court's referral while some others may feel less labeled if they seek help from the community. We recommend that the FMCO should continue delivering the information and the consultation services to the public and that both the private and the public sector should keep on rendering the service in the community. In the public sector, as mentioned above, either operating as specialized centers or as an added value service with the IFSCs, are the main service providers. As social workers of the IFSCs will take care of welfare needs of divorcing couples and their children, and social workers and mediators are of different professions under governance of different ordinances, we suggest that a close collaboration between these two professionals are necessary.

## **8.4 Other Measures to Enhance the Quality of the Mediation Service**

### ***8.4.1 Promotion***

To increase the popularity and use of family mediation among divorcing couples, various kinds of public promotion and community education activities are needed. We suggest to adopt a three-tiered approach to promotion with specific purposes targeting the general public, the divorcing couples and the referrers.

In relation to mediation, it is vitally important to enhance divorce education among members of the general public. The divorce education programs could be at both the educational and remedial level. At the educational level, talks should be promoted and advocated to all parents who may be at risk of divorce. As according to research divorce education programs are more effective when a children's component has been included in the curriculum, it is essential to address issues for both children and parents<sup>107</sup>. The contents may include helping parents to handle their own physical, emotional, social and financial needs, while at the same time helping their children adjust to the changes in their lives. Parents are educated to recognize the impact of parental conflict on a child's development, to respond to children's divorce related concerns appropriately, and to change their long-term roles from being ex-spouses to being co-parents. At a remedial level, advocating the practice of uncoupling counseling for divorcing couples may be worth considering. In uncoupling counseling, a counselor plays the role of a third party and assists a couple to resolve any painful and unresolved marital relationship issues. The hope is that when the couple has worked through these issues, they will be able to make decisions from a place of kindness, openness and flexibility<sup>108</sup>. Uncoupling counseling may also be considered as a preparation stage of mediation, which aims at preparing the couple to use harmonious means such as mediation to settle the issues pertaining to their divorce.

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<sup>107</sup> Divorce education (2016). Retrieved from <http://courts.ky.gov/courtprograms/divorceeducation/Pages/default.aspx>

<sup>108</sup> Uncoupling counseling (2016). Retrieved from <http://www.irenegreene.com/uncoupling-counseling/>

Regarding divorcing couples, the FMCO has already provided relevant information to those who use the court services. To increase the popularity of the mediation service, we should make good use of the e-platform. Apart from basic information about the service, the promotional materials should add the service users' experiences and feedback as well as their success stories. Voices of children such as their opinions of mediation should be emphasized as many parents are highly concerned about the welfare of their children.

The referrers, such as social workers, lawyers, and medical professionals etc. should be provided with a package that includes information about the content and logistics of the service. It is worthwhile organizing some training workshops to enrich their understanding of the service so that they could provide correct information to their clients.

#### ***8.4.2 Training***

As revealed in the study, some informants commented on the lack of a comprehensive picture of the quality of the family mediation services in Hong Kong because there are different professional bodies to monitor the professional standard of family mediators currently. The HKMAAL was established as a regulatory body, with the intention of (i) setting standards for accredited mediators, supervisors, assessors, trainers, coaches and other professionals involved in mediation in Hong Kong and accrediting them upon satisfying the requisite standards; and (ii) setting standards for relevant mediation training courses in Hong Kong, and approving mediators upon satisfying the

requisite standards<sup>109</sup>. However, not all mediators would necessarily apply to the HKMAAL for accreditation or comply with the code of practice thereof<sup>110</sup>. Given that the HKMAAL is a well-established professional regulatory body and it will be more cost-effective if one organization monitors all family mediators, the government could consider appointing the HKMAAL as the single body to standardize the accreditation of family mediators and to oversee their professional standards in order to keep up the quality of the service.

In addition, the HKMAAL has provided a package of courses for continuing professional development (CPD) to uphold the professional standard of their members. The government may consider requiring all practicing mediators other than members of the HKMAAL to take the courses for CPD to ensure that all the mediators have a high professional standard so they can work effectively on the changing needs of divorcing couples and their children.

#### ***8.4.3 Post-mediation Work***

Post-mediation is a significant stage in the mediation process as it can reflect the sustainability of an agreement and minimize the possibility of re-litigation. It is meaningful for mediators to follow up on cases for a period of time and review the compliance with the agreement periodically in order to obtain a clear picture of the workability of mediation.<sup>111</sup> Mediators should also educate themselves about some

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<sup>109</sup> Press releases LCQ17: Qualifications of mediators. Retrieved from <http://www.info.gov.hk/gia/general/201304/24/P201304240204.htm>.

<sup>110</sup> [MediationRules\\_GuidelinesForProfessional.php](http://www.hkmaal.org.hk/en/MediationRules_GuidelinesForProfessional.php). Retrieved from <http://www.hkmaal.org.hk/en/>

<sup>111</sup> The HKMAAL Continuing Professional Development. (2016). Retrieved from <http://www.hkmaal.org.hk/en/CPDCriteria.php>

possible situations leading to non-compliance and re-litigation, and impart the relevant information to their clients. The importance of post-mediation work should be emphasized in mediation training as well.

In relation to post-mediation work, support services for divorcing couples / divorced couples and their children are important for them to be able to transit the family change smoothly. On top of the services provided by the IFSCs, many NGOs such as the HKFWS and the HKCMAC have organized different projects to echo the needs of divorced families<sup>112</sup>. Nevertheless, these projects are usually project-based and not tailor-made for mediation service users and their children. In view of the observable benefits of these support services, they should be developed and promoted to the service users and continued to be provided as a routine service by the IFSCs. Mediators should also refer their clients, in particular those families that have children, to these services as a post-mediation service.

#### ***8.4.4 Children's Work***

Both the mediator and the service users mentioned the positive influence of family mediation on the children. The child informants also appreciated the opportunity to be informed of the situation and to have a mature and neutral person to guide them through their parents' divorce. However, the current practice is that the mediators not only rarely seek children's views but also seldom include children in the family mediation process. They had concerns about the potential harm that could be done to children and they were

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<sup>112</sup> The examples of services for divorced families included A Beam of Hope - Pilot Project on " Child-focused" Parenting Coordination & Co-parenting Services for Divorced Families organized by the HKFWS ([http://www.hkfws.org.hk/en\\_service.aspx?id=75&aaa=3](http://www.hkfws.org.hk/en_service.aspx?id=75&aaa=3)) and the Co-parenting Project for Separated and Divorce Parents conducted by the HKCMAC ([http://www.cmac.org.hk/en/services\\_detail.php?c1id=8&c2id=6](http://www.cmac.org.hk/en/services_detail.php?c1id=8&c2id=6))

not sure of when (e.g., the suitable time to involve children), of how (e.g., the engagement skills) or in what (e.g., the issues discussed in the meeting) to involve the children regarding the process of mediation. In this sense, to promote the children's well-being, the research team suggests enhancing the mediator's professional competence through the courses for accreditation and for CPD in order to enhance their capability to engage and work with children properly.

The research team has the following suggestions to be followed when involving children in the mediation. First, children's views should be sought whenever divorcing couples involve child-related disputes. Second, their voices should be heard as early as possible in order to minimize the views and the perspectives of the adults (e.g., mediators and parents) unduly coloring the views of the children. Third, whenever an interview is needed, it is more desirable for a mediator to arrange an individual session with a child or children to avoid putting them in a loyalty dilemma or causing them other unnecessary harm.

#### ***8.4.5 Data Bank***

The lack of easy access to information about service users is one of the big challenges of this study. Without a comprehensive picture built up from related information about service users (e.g. their demographic characteristics) and about the mediation service (e.g., time and money spend, compliance), it is hard for the government to formulate plan for the future. Hence, it is recommended that the government should set up a data bank for family mediation aimed at collecting data, recording it and using it to plan and develop the service. The data suggested to be recorded should include 1) the

user's related information (e.g. the demographic characteristics of the service user), 2) service related information (e.g. the main issues discussed at the mediation sessions, duration, frequency, cost, result of the service, and the rate of satisfaction with the service), and 3) post mediation information (e.g. compliance with the agreement, re-litigation).

As a concluding remark for this chapter, our research team intends to provide a service development direction to the government based on this study. We believe that the implementation strategies and the launching schedule for each recommendation should be planned carefully and thoroughly. We suggest that the government may consider putting them into practice in different phases. While some recommendations such as the enhancement of promotion work, post-mediation work, training and children's work can be set as some short-term goals, other recommendations like the launching of a mandatory information session, reshuffling service collaboration, developing long-term financial subsidies and setting up a data bank can be regarded as some long-term measures for service improvement.

## List of Appendixes

### Appendix I Comparison of Family Mediation Services among Different Places

	Hong Kong	Australia	New Zealand	England & Wales	Canada	U.S.A.	Singapore
<b>Relevant Reports and Laws</b>	<ul style="list-style-type: none"> <li>• Consultation Paper on Guardianship and Custody 1998 by the Law Reform Commission of Hong Kong</li> <li>• The Report on the Family Dispute Resolution Process 2003 by the Law Reform Commission of Hong Kong</li> <li>• The Final Report on Civil Justice Reform 2004</li> <li>• Practice Direction – 15.10 on Family Mediation (which came into effect on 2 May 2012)</li> </ul>	<ul style="list-style-type: none"> <li>• The Family Law Reform Act 1995</li> </ul>	<ul style="list-style-type: none"> <li>• The Law Commission’s 2003</li> <li>• The Family Dispute Resolution Act 2013</li> </ul>	<ul style="list-style-type: none"> <li>• The UK Family Law Act 1996</li> </ul>	<ul style="list-style-type: none"> <li>• The Federal Divorce Act 1968</li> </ul>	<ul style="list-style-type: none"> <li>• The Family Law reform in 1980s</li> </ul>	<ul style="list-style-type: none"> <li>• 1994, the court mediation center was set up to introduce mediation in the Subordinate Courts;</li> <li>• 1996, the establishment of the Family Court.</li> <li>• 1997 the establishment of the Singapore Mediation Centre (SMC)</li> <li>• 1998 the Community Mediation Centers Act came into force</li> </ul>

<p>Services Model</p>	<ul style="list-style-type: none"> <li>• Voluntary (with default notification of the option)</li> <li>• Therapeutic model (introduced by Professor Howard, Canada in late 80s) &amp; Facilitative model (introduced by scholars from the Bond University, Australia in 1996)</li> </ul>	<ul style="list-style-type: none"> <li>• Voluntary</li> <li>• Facilitative model (+ therapeutic)</li> </ul>	<ul style="list-style-type: none"> <li>• Court referral (default option for appropriate case)</li> <li>• Facilitative model</li> </ul>	<ul style="list-style-type: none"> <li>• Mandatory for clients with legal-aid request or with a minor child (under the age of 16); and the court can make an order requiring it</li> <li>• Facilitative model</li> </ul>	<ul style="list-style-type: none"> <li>• Mandatory information session &amp; Voluntary service</li> <li>• Facilitative model</li> </ul>	<ul style="list-style-type: none"> <li>• Mandatory</li> <li>• Facilitative model</li> </ul>	<ul style="list-style-type: none"> <li>• Compulsory for clients with children under 14 (attend Child Focused Resolution Centre mediation sessions)</li> <li>• Children between 14 to 21( attend mediation at the Family Court)</li> <li>• Court-based &amp; court referral</li> <li>• Facilitative model</li> </ul>
<p>Charge</p>	<ul style="list-style-type: none"> <li>• Self-funded</li> <li>• Short-term subsidizing scheme for people of low income or legal aid subsidy</li> <li>• Funding sources: public or private fund</li> </ul>	<ul style="list-style-type: none"> <li>• Mainly subsidized by the government (the Attorney-General's Department)</li> </ul>	<ul style="list-style-type: none"> <li>• Subsidized by the government</li> </ul>	<ul style="list-style-type: none"> <li>• Subsidized by the government</li> </ul>	<ul style="list-style-type: none"> <li>• On-site of court facility: subsidized by the government</li> <li>• Off-site mediation: charge on a sliding scale</li> </ul>	<ul style="list-style-type: none"> <li>• Subsidized by the government (variance among states)</li> </ul>	<ul style="list-style-type: none"> <li>• Free of charge; subsidized by the government</li> </ul>

<p>Services Providers</p>	<ul style="list-style-type: none"> <li>• Court: referral</li> <li>• MCO – services co-ordination</li> <li>• Community-based services provider from NGOs or private sector</li> <li>• HKMAAL: 3 years' work experience; a degree or a post graduate in social work, psychology, counselling or law ; completed a basic training course or course of 40 hrs ; 2 live family mediation cases; advanced training course</li> </ul>	<ul style="list-style-type: none"> <li>• Court: the Registrar or the Counselor</li> <li>• Community: NGOs staffed with professional counsellors and mediators</li> </ul>	<ul style="list-style-type: none"> <li>• Court referral</li> <li>• Community-based service provider</li> </ul>	<ul style="list-style-type: none"> <li>• Court: lawyers</li> <li>• Community-based service: NGOs staffed with professional counsellors and mediators</li> </ul>	<ul style="list-style-type: none"> <li>• Court referral</li> <li>• Community-based: services rendered by social workers, lawyers, psychologists, or other professionals</li> </ul>	<ul style="list-style-type: none"> <li>• Court-based</li> <li>• Master degree in family counselling or behavioral sciences, attended an annual three-day conference for mediators and family court judges</li> </ul>	<ul style="list-style-type: none"> <li>• Court-based</li> <li>• Community Mediation Center: staffed with professional counsellors and mediators</li> </ul>
<p>Code for Mediators</p>	<ul style="list-style-type: none"> <li>• Comply with the HK Mediation Code and Mediation Rules</li> </ul>	<ul style="list-style-type: none"> <li>• A conduct standard for mediation, including attitude, eligibility and competence</li> </ul>	<ul style="list-style-type: none"> <li>• Mediators have to be the members of an Approved Dispute Resolution Organization</li> </ul>	<ul style="list-style-type: none"> <li>• Mediators was under the UK college of family mediation launched in 1996</li> </ul>	<ul style="list-style-type: none"> <li>• A code of Conduct for family mediators</li> </ul>	<ul style="list-style-type: none"> <li>• No standard code of conduct</li> <li>• Set by different associations such as the academy of Professional Family Mediators, American Bar Association Family Law Section</li> </ul>	<ul style="list-style-type: none"> <li>• a Code of Ethics and Basic Principles on Court Mediation has been established</li> </ul>

<p>Success Rate</p>	<ul style="list-style-type: none"> <li>• 2003-2012 – 66% (648 cases)</li> <li>• 2013 – 69% (78 cases)</li> <li>• 2014 – 74% (108 cases)</li> </ul>	<ul style="list-style-type: none"> <li>• Full agreement (44-71%)</li> <li>• Partial agreement (17-39%)</li> <li>• No agreement (17-18%)</li> </ul>	<ul style="list-style-type: none"> <li>• 380 cases referred to mediation</li> <li>• 354 entered pre-mediation</li> <li>• 284 proceeded to mediation</li> <li>• (No data about success rate because it is hard to define success)</li> </ul>	<ul style="list-style-type: none"> <li>• Full agreement - 72% from a family proceedings pilot in 2009</li> </ul>	<ul style="list-style-type: none"> <li>• Family Mediation Pilot Project – Ontario, Canada 50% - 90% except high conflict spouses</li> </ul>	<ul style="list-style-type: none"> <li>• the California divorce mediation project, the settlement rate is:</li> <li>• Comprehensive agreement (50%) Partial agreement (8%)</li> <li>• Productive terminators (15%)</li> <li>• True terminators (26%)</li> <li>• Overall 50% - 90% except high conflict spouses</li> </ul>	<ul style="list-style-type: none"> <li>• 2004-2008: 94.6% successfully settled</li> <li>• 14,948 cases were mediated, of which 13,051 (or 87%) settled from January to September 2011</li> </ul>
<ul style="list-style-type: none"> <li>• Remarks</li> </ul>	<ul style="list-style-type: none"> <li>• Practice-driven development</li> </ul>	<ul style="list-style-type: none"> <li>• Innovation: child-inclusive mode of mediation</li> </ul>				<ul style="list-style-type: none"> <li>• A tiered service model</li> </ul>	<ul style="list-style-type: none"> <li>• Follow the Australian model</li> </ul>

**Appendix II Objectives, Indicators, and Data Collection Methods**

<b>Objectives</b>	<b>Indicators</b>	<b>Data collection methods</b>
<b>To identify and compare the profiles of services users (HAB sponsored cases and non-sponsored cases) in terms of their backgrounds and expectation of outcomes.</b>	<ul style="list-style-type: none"> <li>• Service users: demographic &amp; socio-economic characteristics (e.g. age, gender, ethnic characteristics, educational level, occupations, income, length of marriage, expectation of outcomes, etc.).</li> </ul>	<ul style="list-style-type: none"> <li>• A user survey of               <ul style="list-style-type: none"> <li>○ FC sponsored cases identified from three NGOs.</li> <li>○ Non-sponsored cases identified from other NGOs and private practitioners.</li> </ul> </li> <li>• Secondary data analysis of the statistics from HAB sponsored cases.</li> </ul>
<b>To compare the outcomes of using and not using family mediation services.</b>	<ul style="list-style-type: none"> <li>• Amount of court time and expenditure.</li> <li>• Other possible factors.</li> </ul>	<ul style="list-style-type: none"> <li>• Interviews with family mediation supervisors and family mediators (NGOs with FC sponsored cases and NGOs and private practitioners with non-sponsored cases).</li> <li>• Interviews with service-users (HAB sponsored cases and non-sponsored cases).</li> <li>• Interviews with non-services users.</li> </ul>

<b>To examine the available resources and cost incurred.</b>	<ul style="list-style-type: none"> <li>• Program budget.</li> <li>• Program organization (e.g. bureau/department involved).</li> <li>• Divorcing couples: financial cost, psychological cost (e.g. stress), and social cost (e.g. harm done to family relationships in settling the dispute).</li> <li>• Public cost: civil legal aid cost, cost of support provided for family mediators (e.g. training &amp; supervision).</li> </ul>	<ul style="list-style-type: none"> <li>• Interviews with service heads of NGOs with FC sponsored cases.</li> <li>• Interviews with family mediation supervisors and family mediators (NGOs with HAB sponsored cases and NGOs and private practitioners with non-sponsored cases).</li> <li>• Interviews with service users (FC sponsored cases and non-sponsored cases).</li> </ul>
<b>To explore the issues of concern throughout the entire mediation process.</b>	<ul style="list-style-type: none"> <li>• Issues of disputes (e.g. child custody, access, financial support for spouse, financial support for child (ren), accommodation/property, etc.).</li> </ul>	<ul style="list-style-type: none"> <li>• Interviews with family mediation supervisors and family mediators (NGOs with HAB sponsored cases and NGOs and private practitioners with non-sponsored cases).</li> <li>• Interviews with service users (FC sponsored cases and non-sponsored cases).</li> </ul>

<p><b>To probe into the factors affecting using or not using mediation services and the respective outcomes thereof.</b></p>	<ul style="list-style-type: none"> <li>• Delivered program components.</li> <li>• Quality of delivered program components.</li> <li>• Types of case management and/or service provisions for divorcing couples and their children at different stages of the mediation.</li> <li>• Fees charging mechanism including fees structure and fees exemption policy.</li> <li>• Caseloads.</li> <li>• Mediators' ability to identify the real or underlying issues through the mediation process.</li> <li>• Users' involvement (e.g. time spent on mediation).</li> <li>• Role and responsibilities of concerned bureau/department.</li> </ul>	<ul style="list-style-type: none"> <li>• Interviews with stakeholders including service providers (e.g., service heads of NGOs with FC sponsored cases; the Family Mediation Co-coordinator's Office) and referrers (e.g., social workers, family lawyers).</li> <li>• Interviews with family mediation supervisors and family mediators (NGOs with HAB sponsored cases and NGOs and private practitioners with non-sponsored cases).</li> <li>• Interviews with service users (FC sponsored cases and non-sponsored cases).</li> </ul>
<p><b>To gauge the outcomes of the mediation in terms of the agreement and partial agreement rates achieved.</b></p>	<ul style="list-style-type: none"> <li>• Success rates.</li> <li>• Spousal relationship quality</li> <li>• Child benefits, childcare arrangements.</li> <li>• Parent-in-law relationship quality.</li> <li>• Psychological distress</li> <li>• Compliance &amp; re-litigation of agreement.</li> </ul>	<ul style="list-style-type: none"> <li>• Interviews with family mediation supervisors and family mediators (NGOs with HAB sponsored cases and NGOs and private practitioners with non-sponsored cases).</li> <li>• Interviews with service users (FC sponsored cases and non-sponsored cases).</li> <li>• Interview with children (HAB sponsored cases and non-sponsored cases).</li> </ul>
<p><b>To delineate how satisfied the users of the service are with the mediation process and with the outcomes of mediation.</b></p>	<ul style="list-style-type: none"> <li>• User's satisfaction with the mediation service as a whole.</li> <li>• Whether or not the user would recommend the service to others.</li> </ul>	<ul style="list-style-type: none"> <li>• A survey (included users demographic characteristics and satisfaction level) for users of FC sponsored cases and non-sponsored cases.</li> </ul>

## Appendix III A Questionnaire for Survey

### 香港家事調解服務狀況研究

#### 問卷調查

本調查是由香港特別行政區政府家庭議會委託中央政策組統籌，香港中文大學社會工作學系顧問團隊負責推行的一項有關香港家事調解服務的研究，所得資料將有助政府更深入了解現時服務情況，從而改善。完成問卷時間約需十至十五分鐘。問卷以不記名方式進行，所有資料將於整項研究結束後予以銷毀。

請閣下選擇合適的答案，並於方格內劃上別號。

#### 第一部分：調解服務資料

##### 1. 您從何得知調解服務？

- 1. 配偶 / 前配偶（以下簡稱對方）
- 2. 社工
- 3. 律師
- 4. 親友
- 5. 家事法庭
- 6. 宣傳物品（例如：單張、小冊子、互聯網）
- 7. 其他（請註明\_\_\_\_\_）

##### 2. 您的調解員的性別是：

- 1. 男
- 2. 女

##### 3. 您的調解員的職業背景是：

- 1. 律師
- 2. 社工
- 3. 輔導員
- 4. 心理學家
- 5. 大學教授
- 6. 其他（請註明）\_\_\_\_\_
- 7. 不清楚

##### 4. 您的調解員來自：

- 1. 香港家庭福利會調解中心 / 香港公教婚姻輔導會 / 循道衛理楊震社會服
- 2. 其他社福機構
- 3. 律師事務所
- 4. 其他（請註明）\_\_\_\_\_
- 5. 不清楚

##### 5. 你是否需要支付首次面談登記費？

- 1. 否
- 2. 是 → 費用（個人登記費）\$\_\_\_\_\_
- 3. 不清楚

6. 你個人付出的調解費用是（以每小時計算）：
- 1. 免費
  - 2. \$100 或以下
  - 3. \$101 - \$200
  - 4. \$201 - \$300
  - 5. \$301 - \$400
  - 6. \$401 - \$500
  - 7. \$501 - \$600
  - 8. \$601 或以上
  - 9. 不清楚
7. 你是否在調解費上接受任何資助？
- 1. 有（請答第 8 題）
  - 2. 沒有（請答第 9 題）
  - 3. 不清楚（請答第 9 題）
8. 若有, 你從何獲得資助？
- 1. 機構
  - 2. 民政事務局家庭議會
  - 3. 法律援助處
  - 4. 調解員訓練項目
  - 5. 不清楚
9. 調解員與你進行了多少節單獨調解？
- 1. 沒有單獨見面
  - 2. 1 - 2
  - 3. 3 - 4
  - 4. 5 - 6
  - 5. 7 - 8
  - 6. 8 - 9
  - 7. 10 或以上
  - 8. 不清楚
10. 調解員與你及對方進行了多少節共同調解？
- 1. 沒有共同見面
  - 2. 1 - 2
  - 3. 3 - 4
  - 4. 5 - 6
  - 5. 7 - 8
  - 6. 8 - 9
  - 7. 10 或以上
  - 8. 不清楚

11. 是次調解服務的結果是：

- 1. 全部達成共識（請答第 12 題）
- 2. 部分達成共識（請答第 12 及 13 題）
- 3. 沒有達成共識（請答第 13 題）

12. 經調解達成全部或部份共識的包括：（可選擇多項）

- 1. 子女照顧及生活安排
- 2. 親子相聚時間安排
- 3. 子女生活費用安排
- 4. 對方生活費用安排
- 5. 居所安排
- 6. 財產安排
- 7. 其他（請註明）\_\_\_\_\_

13. 調解後仍沒有達成共識的是：（可選擇多項）

- 1. 子女照顧及生活安排
- 2. 親子相聚時間安排
- 3. 子女生活費用安排
- 4. 對方生活費用安排
- 5. 居所安排
- 6. 財產安排
- 7. 其他（請註明）\_\_\_\_\_

第二部分：調解服務結果方面

**關於子女安排：**

		非常 不同意 1	不同 意 2	頗不 同意 3	頗同 意 4	同意 5	非常 同意 6	不適 用 0
14.	調解服務幫助我和對方達成子女照顧及生活安排的協議。	<input type="checkbox"/>						
15.	調解服務能夠幫助我和對方達成親子相聚時間安排的協議。	<input type="checkbox"/>						
16.	調解後，我和對方能夠對子女生活費的安排達成協議。	<input type="checkbox"/>						
17.	調解服務能幫助我和對方更認識子女的需	<input type="checkbox"/>						

	要。							
18.	我感到我和對方就子女達成的協議，是實際及可行。	<input type="checkbox"/>						
19.	我認為對方會遵守以上的協議。	<input type="checkbox"/>						
20.	我對就著子女安排達致的協議感到滿意。	<input type="checkbox"/>						

**關於生活費用安排、居所、財產安排：**

		非常不同意 1	不同意 2	頗不同意 3	頗同意 4	同意 5	非常同意 6	不適用 0
21.	調解服務能幫助我和對方就著生活費用安排達成協議。	<input type="checkbox"/>						
22.	調解服務協助我和對方處理曾經共住的居所。	<input type="checkbox"/>						
23.	調解服務能幫助我和對方就著財產安排達成協議。	<input type="checkbox"/>						
24.	我感到我和對方就生活費用、居所和財產安排所達成的協議，是實際及可行。	<input type="checkbox"/>						
25.	我認為對方會遵守以上的協議。	<input type="checkbox"/>						
26.	我就以上安排所達致的協議感到滿意。	<input type="checkbox"/>						

### 第三部分：調解過程

		非常不同意 1	不同意 2	頗不同意 3	頗同意 4	同意 5	非常同意 6
27.	我認為在調解過程中，我能夠清楚表達自己關切的議題和立場。	<input type="checkbox"/>					
28.	我認為在調解過程中，我能夠了解對方關切的議題和立場。	<input type="checkbox"/>					
29.	我認為調解過程令我可以冷靜和理性地處理事情。	<input type="checkbox"/>					
30.	我認為調解過程令對方可以冷靜和理性地處理事情。	<input type="checkbox"/>					
31.	調解減少了我與對方的爭拗。	<input type="checkbox"/>					
32.	我認為調解可以促進我與對方的溝通。	<input type="checkbox"/>					
33.	我在調解過程中的經驗是正面的。	<input type="checkbox"/>					

### 第四部份：服務方面

		非常不同意 1	不同意 2	頗不同意 3	頗同意 4	同意 5	非常同意 6
34.	我感到調解員能夠清楚地解釋調解的程序。	<input type="checkbox"/>					
35.	我認為調解員擁有豐富的調解知識。	<input type="checkbox"/>					
36.	我感到調解員很有技巧地協助我和對方達至協議。	<input type="checkbox"/>					

37.	調解員能夠明白我的關注和立場。	<input type="checkbox"/>					
38.	調解員能夠讓我安心地表達自己關切的議題和立場。	<input type="checkbox"/>					
39.	調解員在處理我和對方不同意見/立場時，表現得中立和公正。	<input type="checkbox"/>					
40.	如果我將來遇到類似問題，我會再接受調解服務。	<input type="checkbox"/>					
41.	如果我有朋友離婚，我會極力推薦其接受調解服務。	<input type="checkbox"/>					

**在使用調解服務，我對各方面的滿意程度**

		非常不同意 1	不同意 2	頗不同意 3	頗同意 4	同意 5	非常同意 6
42.	所獲得的資訊。	<input type="checkbox"/>					
43.	申請調解服務的手續。	<input type="checkbox"/>					
44.	與調解員見面的時間及地點。	<input type="checkbox"/>					
45.	調解服務的收費。	<input type="checkbox"/>					
46.	調解所需要的時間。	<input type="checkbox"/>					
47.	調解服務與其他服務（例如司法、輔導服務）的配合。	<input type="checkbox"/>					

48.	調解員的專業能力和態度。	<input type="checkbox"/>					
49.	整體對是次調解服務的滿意程度。	<input type="checkbox"/>					

第五部分：基本資料

50. 性別：  1. 男

2. 女

51. 年齡：

1. 20 歲或以下

2. 21 - 30 歲

3. 31 - 40 歲

4. 41 - 50 歲

5. 51 或以上

52. 教育程度：

1. 沒有接受教育

2. 幼稚園

3. 小學

4. 初中

5. 高中

6. 大學或以上

53. 職業：

1. 全時間照顧家庭，沒有外出工作

2. 全職工作

3. 兼職工作

4. 待業

54. 每月收入（以個人入息計算）：

1. \$0 - \$10,000 或領取綜援

2. \$10,001 - \$20,000

3. \$20,001 - \$30,000

4. \$30,001 - \$40,000

5. \$40,001 - \$50,000

6. \$50,001 - \$60,000

7. \$60,001 或以上

55. 您的出生地：

- 1. 香港
- 2. 其他地方（請註明出生地點）\_\_\_\_\_ 來港幾年\_\_\_\_\_

56. 子女數目：

- 1. 沒有
- 2. 1 位
- 3. 2 位
- 4. 3 位
- 5. 4 位或以上

57. 子女年齡(可選多項)

- 1. 0 - 5 歲
- 2. 6 - 10 歲
- 3. 11 - 15 歲
- 4. 16 - 20 歲
- 5. 21 歲或以上
- 6. 不適用

<問卷完成，多謝合作>

請交還問卷！

## Appendix IV Interview Guideline for Family Mediators / Family Mediation Supervisors

### 香港家事調解服務狀況研究 家事調解員／監督 訪談指引

感謝閣下接受是次訪談。是次訪談希望閣下能分享家事調解的經驗，內容包括五個部份：1) 使用/不使用家事調解服務的原因；2) 家事調解過程；3) 家事調解的效果；4) 家事調解對離異夫妻、孩子及其他家庭成員的影響；5) 服務質素與實施。您的參與將有助我們的家事調解服務研究，訪談內容僅供本研究參考，個人資料會絕對保密。

訪談日期：\_\_\_\_\_

訪談時間：\_\_\_\_\_ 至 \_\_\_\_\_ (總時數：\_\_\_\_\_)

訪談地點：\_\_\_\_\_

訪談員姓名：\_\_\_\_\_

#### 1. 問題：

##### A. 使用／不使用家事調解服務的原因

1. 尋求家事調解的個案主要希望得到甚麼幫助？
2. 是甚麼原因影響個案不考慮家事調解服務？

##### B. 家事調解過程

1. 請描述一個典型個案的家事調解過程。
2. 那些方面較易解決？那些較難？
3. 你可以分辨出那些個案較能受助於家事調解，那些個案較難嗎？
4. 有甚麼因素影響調解過程？
5. 處理調解的挑戰是甚麼？困難是甚麼？
6. 你怎樣處理挑戰和困難？

##### C. 家事調解的效果

1. 有甚麼因素影響調解結果？（如離婚階段、爭執的性質、支援服務、家事調解員訓練等）
2. 有甚麼因素能幫助雙方達致其期望的結果？
3. 有甚麼因素能幫助雙方在調解中維持協議？
4. 有甚麼困難令雙方未能取得期望的結果？
5. 你是否知道協議之後的執行情況？若知道，情況如何？有甚麼因素影響協議執行？

6. 有甚麼方法能改善服務，令雙方達到更佳的調解結果（全面或部份共識）？

家事調解對離異夫妻、孩子及其他家庭成員的影響

1. 家事調解對參與者影響如何？（例如：情緒、離婚後適應、工作、家庭生活、社交生活、與前妻／夫的關係等）

2. 家事調解對離異夫婦的影響？

3. 家事調解對孩子的影響？

4. 在甚麼情況下，你會邀請個案的孩子參加調解？（請舉一個案作例）

5. 孩子如何參與調解過程？

6. 你覺得孩子的參與對撫養安排及離異後的親子關係有何影響？

7. 你覺得孩子參與調解對其情緒和行為有何影響？

8. 相較使用和沒有使用調解服務，對離異夫妻、孩子和家庭成員的影響有分別嗎？

#### D. 服務質素與實施

1. 請形容調解個案的轉介程序。

2. 請評價現時調案個案轉介程序。

3. 家事調解員或監督有何訓練需要？

4. 你現在對家事調解有甚麼意見？

5. 各協會（例如：香港調解資歷評審協會、香港國際仲裁中心、香港調解顧問中心等）有提供訓練和支援給調解員或監督嗎？對你有幫助嗎？

6. 在家事調解服務中，政府在協調或財務支援上角色如何？

7. 其他相關機構（例如：調解統籌主任辦事處、法律援助署等）有參與協調服務嗎？角色如何？

8. 民政事務署在2012年開始試驗計劃，資助一些非牟利機構提供調解服務給低收入家庭。

i) 你所屬的機構為甚麼參加／不參加試驗計劃？

ii) 若果你的機構沒有參加試驗計劃，你的機構是如何維持調解服務的？

iii) 你覺得試驗計劃在多大程度上實現了預期的目標？

iv) 在試驗計劃開始後，你有沒有察覺個案的背景，爭執性質，成功率等有否轉變？

v) 在試驗計劃實施前，這些個案是怎樣獲得服務的？

vi) 對試驗計劃的津助模式，有沒有改善建議？

vii) 對調解服務現行發展，服務提供模式及執行，你有何整體評價？

viii) 有沒有其他意見？

F. 最後，你有沒有其他補充？

G. 你對整個面談有甚麼看法？

2. 訪談對象資料：

2.1. 姓名: \_\_\_\_\_

2.2. 性別: \_\_\_\_\_

2.3. 所屬機構/公司: \_\_\_\_\_

2.4. 教育水平: \_\_\_\_\_

2.5. 調解資歷: \_\_\_\_\_

2.6. 職位

2.6.1. 家事調解員 成為家事調解員的年份 \_\_\_\_\_

2.6.2. 家事調解監督 成為家事調解監督的年份 \_\_\_\_\_

2.6.3. 過去一年大概曾監督個案共計 \_\_\_\_\_ (只限家事調解監督)

2.6.4. 過去一年大概曾／調解個案共計 \_\_\_\_\_

2.7. 平均每月進行調解的節數 (3小時以內為一節)： \_\_\_\_\_

2.8. 平均每月進行調解監督的節數 (3小時以內為一節)： \_\_\_\_\_

2.9. 聯絡電話： \_\_\_\_\_

— 完 —

## Appendix V Interview Guideline for Service Users

### 香港家事調解服務狀況研究

#### 家事調解服務使用者

#### 訪談指引

感謝閣下接受是次訪談。是次訪談希望閣下能分享過去的經驗，內容包括四個部份：1) 使用家事調解服務前的情況；2) 使用家事調解服務的經驗；3) 調解後的情況；以及4) 對調解服務的意見。在訪談進行中，或許會引起閣下一些不愉快的經歷，您可以選擇不回答個別問題，或終止接受訪問。訪談完結後，也希望您能夠分享對於是次訪談的感受和看法。您的參與將有助我們的家事調解服務研究，訪談內容僅供本研究參考，個人資料會絕對保密。

訪談日期：\_\_\_\_\_

訪談時間：\_\_\_\_\_ 至 \_\_\_\_\_ (總時數：\_\_\_\_\_)

訪談地點：\_\_\_\_\_

訪談員姓名：\_\_\_\_\_

#### 1. 問題：

##### **A. 使用服務前：**

1. 當你打算/知道離婚時，壓力最大是甚麼？你有甚麼擔心？
2. 你曾經使用甚麼方法去解決你擔心的事情？
3. 為甚麼會選擇家事調解服務？
4. 當時你希望達成那些協議？
5. 你對家事調解服務有甚麼期望？

##### **B. 家事調解過程：**

1. 請分享你的家事調解經驗。
2. 調解過程中，有沒有明顯和重要的轉折點？
3. 你覺得家事調解服務有用嗎？為甚麼？
4. 調解對你本人及家庭關係有甚麼影響？
5. 除了前配偶以外，有誰曾經參與調解？

##### **C. 家事調解的結果：**

1. 調解達成了那些協議？
2. 請分享現時雙方遵守協議的情況。
3. 協議是否有修改？
4. 協議是否符合你的期望？

**D. 服務質素與實施：**

1. 尋找和使用調解服務是否容易？
2. 你是從何途徑知道家事調解服務的？
3. 家事調解統籌主任辦公室舉辦的講座：
  - 是否參加過由調解統籌主任辦公室舉辦的講座？
  - 如果有，你是如何找到這個服務的？
  - 如果沒有，你知道這服務嗎？
4. 開始家事調解服務：
  - 你是如何開始家事調解服務的？
  - 你是主動還是被邀請參與家事調解服務的？
  - 如果是主動，在取得對方一起參與調解服務的過程中，你有沒有遇到很大的困難？若有，是甚麼困難？如何解決？
  - 你等候了多久才開始第一節家事調解會談？你覺得等候時間合理嗎？
5. 時間與收費：
  - 你一共參加了多少節調解（包括個人與共同會面）？
  - 家事調解的時間較你預期，是長還是短？你覺得等候時間合適嗎？
  - 你需要付費給家事調解服務嗎？如需要，費用是多少？你是否覺得收費合理？如果否，你覺得收費多少才合理？
  - 如果你不需要付款或接受津助，對你有何幫助？如要付費，你仍會考慮此服務嗎？為什麼？
6. 家事調解員：
  - 選擇家事調解員時，你會考慮甚麼因素？（例如，性別、專業背景、經驗、收費、種族等）
  - 你覺得你的家事調解員的專業態度如何？有何改善的地方？
7. 目前的家事調解服務在轉介方式、調解過程、收費及調解員方面是否有不足？
8. 對改善家事調解服務，你有什麼建議？
9. 整體而言，你會如何評價家事調解服務？
10. 整體而言，你滿意你接受的家事調解服務嗎？

**E. 最後，你有沒有其他補充？**

**F. 你對整個面談有甚麼感受或看法？**

2. 訪談對象資料：

2.1. 姓名: \_\_\_\_\_

2.2. 性別: \_\_\_\_\_

2.3. 年齡: \_\_\_\_\_

2.4. 教育水平: \_\_\_\_\_

2.5. 職業: \_\_\_\_\_

2.6. 婚齡: \_\_\_\_\_

2.7. 聯絡電話: \_\_\_\_\_

2.8. 您的調解員來自：

香港家庭福利會調解中心／香港公教婚姻輔導會／循道衛理楊震社會服務處

其他社福機構

律師事務所

其他（請註明）\_\_\_\_\_

2.9. 您的調解員的職業背景是：

律師

社工

輔導員

心理學家

大學教授

其他（請註明）\_\_\_\_\_

— 完 —

## Appendix VI Interview Guideline for Non-service Users

### 香港家事調解服務狀況研究 非調解服務使用者 訪談指引

感謝閣下接受是次訪談。是次訪談希望閣下能分享處理離婚事宜的經驗。在訪談進行中，或許會引起閣下一些不愉快的經歷，您可以選擇不回答個別問題，或終止接受訪問。訪談完結後，也希望您能夠分享對於是次訪談的感受和看法。您的參與將有助我們的研究，訪談內容僅供本研究參考，個人資料會絕對保密。

訪談日期：\_\_\_\_\_

訪談時間：\_\_\_\_\_ 至 \_\_\_\_\_（總時數：\_\_\_\_\_）

訪談地點：\_\_\_\_\_

訪談員姓名：\_\_\_\_\_

#### 1. 問題:

##### **A. 離異前**

1. 當你打算/知道離婚時，壓力最大是甚麼？你有甚麼擔心？
2. 你曾經使用甚麼方法去解決你擔心的事情？
3. 你曾考慮選擇家事調解服務嗎？甚麼原因令你最後沒有使用家事調解服務？

##### **B. 離異過程**

1. 當時你希望怎樣處理有關離婚的事情？
2. 最後你用了甚麼方法處理有關離婚的事情？
3. 離婚時處理了那些問題？
4. 有關離婚的事情上，有沒有達成協議？若有，是甚麼協議？若沒有，為甚麼？
5. 你用甚麼方法達成協議？這些方法有效嗎？
6. 當時的經驗如何？
7. 現在是否仍然有些未能協議的問題困擾你？

##### **C. 離婚方法的質素與執行**

1. 你是從何知道這個處理離婚事宜的方法？
2. 時間：你花了多少時間處理離婚事宜？需時比預期長或短？你如何看這個需時？覺得時間合理嗎？
3. 金錢：你付了多少費用來處理離婚事宜？你覺得費用合理和值得嗎？如是，在那方面值得？
4. 對你選擇的方法，你有何意見？
5. 你覺得這些解決方法有局限嗎？
6. 整體而言，你滿意這些解決方法嗎？為甚麼？

**D.** 最後，你有沒有其他補充？

**E.** 你對整個面談有甚麼感受或看法？

2. 訪談對象資料：

2.1. 姓名: \_\_\_\_\_

2.2. 性別: \_\_\_\_\_

2.3. 年齡: \_\_\_\_\_

2.4. 教育程度: \_\_\_\_\_

2.5. 職業: \_\_\_\_\_

2.6. 婚齡: \_\_\_\_\_

2.7. 聯絡電話: \_\_\_\_\_

— 完 —

## Appendix VII Interview Guideline for Children

### 香港家事調解服務狀況研究 服務使用者子女 訪談指引

感謝閣下接受是次訪談。你的雙親使用了家事調解服務來處理離婚事宜，並且參與了是次的研究。我們也希望瞭解你在當中的經驗。過程中可能會令你想起過去經歷，您可以選擇不回答個別問題，或終止接受訪問。訪談完結後，也希望您能夠分享對於是次訪談的感受和看法。您的參與將有助我們的家事調解服務研究，訪談內容僅供本研究參考，個人資料會絕對保密。

訪談日期：\_\_\_\_\_

訪談時間：\_\_\_\_\_ 至 \_\_\_\_\_（總時數：\_\_\_\_\_）

訪談地點：\_\_\_\_\_

訪談員姓名：\_\_\_\_\_

#### 1. 問題:

a. 互相介紹。（從訪談員背景如姓名，興趣等開始，再請被訪者介紹自己）

b. 如果給你一個題目，題目是「爸爸和媽媽的關係」，你會說甚麼？

*[當被訪子女描述父母的婚姻狀況時，訪問員邀請兒童進一步描述故事細節，特別是父母關係改變，子女的感覺，對子女的影響(例如情緒，學習等)以及父母有否留意子女反應等。]*

c. 故事中有沒有重要的轉折點？

d. 故事結尾如何？

e. 有時候你和同學爭吵，可能會找第三位者(例如:同學、老師)做「和事佬」，你的父母也用差不多的方法找其他人幫忙處理離婚。你知道嗎？若是，你從何得知？

f. 現實中父母曾找人幫忙做「和事佬」，你覺得故事中多了一個人幫忙，對故事發展有甚麼影響？若沒有人幫忙，故事發展會有不同嗎？

g. 最後, 你有沒有其他補充？

h. 你對整個面談有甚麼感受？

#### 2. 訪談對象資料：

a. 姓名: \_\_\_\_\_

b. 家長姓名: \_\_\_\_\_

c. 性別: \_\_\_\_\_

d. 年齡: \_\_\_\_\_

e. 教育程度: \_\_\_\_\_

f. 職業: \_\_\_\_\_

g. 兄弟姐妹數目: \_\_\_\_\_

h. 家中排行: \_\_\_\_\_

— 完 —

## **Appendix VIII Interview Guideline for Stakeholders (Service Providers)**

### **香港家事調解服務狀況研究** **服務機構主管** **訪談指引**

感謝閣下接受是次訪談。是次訪談希望閣下能分享家事調解服務的經驗，以及對服務質素與實施提供意見。您的參與將有助我們的家事調解服務研究，訪談內容僅供本研究參考，個人資料會絕對保密。

訪談日期： \_\_\_\_\_  
訪談時間： \_\_\_\_\_ 至 \_\_\_\_\_ （總時數： \_\_\_\_\_）  
訪談地點： \_\_\_\_\_  
訪談員姓名： \_\_\_\_\_

#### 1. 問題:

##### **A. 服務質素及執行**

1. 請簡介貴機構的調解服務特色及運作模式。
2. 你在提供調解服務中的角色如何？
3. 你的部門如何與其他機構協調？
4. 對現行的調解發展，服務提供模式及執行上，你有何評價？
5. 在家事調解服務中，政府在協調或財務支援上角色如何？
6. 其他機構（例如：香港調解資歷評審協會、香港國際仲裁中心、香港調解顧問中心等）對調解員和監督的訓練和支援上的角色如何？
7. 其他相關機構（如：調解統籌主任辦事處、法律援助署、社會福利署等）在協調服務上扮演甚麼角色？

民政事務署在2012年，開始資助一些非牟利機構提供調解服務給低收入家庭。

##### 8. 民政事務署試驗計劃：（受津助／非津助服務機構主管）

- i) 你的機構為甚麼參加／不參加試驗計劃？
- ii) 若果沒有參加試驗計劃，你的機構是如何維持調解服務的？
- iii) 若果你的機構有參加試驗計劃，你覺得試驗計劃在多大程度上達致了預期的目標？
- iv) 在試驗計劃開始後，你有否察覺個案的背景，爭執性質，成功率等有沒有轉變？
- v) 在試驗計劃實施前，這些個案是怎樣獲得服務的？
- vi) 請評價試驗計劃的津助模式。

##### **B. 最後，你有沒有其他補充？**

##### **C. 你對整個面談有甚麼看法？**

#### 2. 訪談對象資料：

- 2.1. 姓名: \_\_\_\_\_
- 2.2. 性別: \_\_\_\_\_
- 2.3. 所屬機構: \_\_\_\_\_
- 2.4. 職位: \_\_\_\_\_
- 2.5. 聯絡電話: \_\_\_\_\_

— 完 —

## **Appendix IX Interview Guideline for Stakeholders (Service Referrers)**

### **香港家事調解服務狀況研究** **家事調解服務（轉介者）** **訪談指引**

感謝閣下接受是次訪談。是次訪談希望閣下能分享家事調解個案的轉介經驗，以及對家事調解服務質素與實施提供意見。您的參與將有助我們的家事調解服務研究，訪談內容僅供本研究參考，個人資料會絕對保密。

訪談日期： \_\_\_\_\_  
訪談時間： \_\_\_\_\_ 至 \_\_\_\_\_ （總時數： \_\_\_\_\_）  
訪談地點： \_\_\_\_\_  
訪談員姓名： \_\_\_\_\_

#### 1. 問題：

##### **A. 服務質素與執行**

1. 在何種情況下，你會轉介個案接受家事調解服務？
2. 你對調解服務有甚麼期望？
3. 在轉介某一個案時，你會有其他考慮原因嗎？
4. 轉介程序是怎樣的？
5. 你對轉介程序有何評價？
6. 有沒有遇過任何的困難？如有，是甚麼困難？
7. 你對轉介程序有何改善建議？
8. 你覺得家事調解員整體的質素和表現如何？

民政事務署在2012年，開始資助一些非牟利機構提供調解服務給低收入家庭。

#### 9. 民政事務署試驗計劃

- i. 你有轉介個案接受試驗計劃嗎？
  - ii. 轉介的經驗如何？
  - iii. 你的個案對試驗計劃有甚麼意見？
  - iv. 你覺得試驗計劃在多大程度上達致了預期的目標？
  - v. 你覺得家事調解服務在試驗計劃實施前後有沒有轉變？
  - vi. 請評價試驗計劃的津助模式。
  - vii. 對試驗計劃的津助模式，有沒有改善建議？
10. 你對調解服務的發展現況，服務實施模式及執行整體上有何建議？
11. 你對調解服務的執行整體上有何意見？

##### **B. 最後，你有沒有其他補充？**

##### **C. 你對整個面談有甚麼看法？**

#### 2. 訪談對象資料：

- 2.1. 姓名: \_\_\_\_\_
- 2.2. 性別: \_\_\_\_\_
- 2.3. 所屬機構: \_\_\_\_\_
- 2.4. 職位: \_\_\_\_\_
- 2.5. 聯絡電話: \_\_\_\_\_

— 完 —

## **Appendix X A Reply Slip for Surveyed Users to Participate in In-depth Interview**

### **香港家事調解服務狀況研究**

感謝 閣下完成是項問卷。另外，為能更深入瞭解家事調解服務的狀況，並從而改善，本研究希望可以邀請 閣下參加家事調解服務的訪談，訪談將由大學教授或研究員進行，請 閣下分享使用服務前後的經驗，以及對服務的意見。

訪談約需一至一個半小時。訪談結束後，本研究會敬贈五十元禮卷予 閣下以表謝意。訪談內容僅供本研究參考，個人資料將會絕對保密。

若蒙 閣下撥冗參加，不勝感謝！

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#### **回覆**

本人 願意參加是項家事調解服務研究的訪談，分享有關使用家事調解服務的經驗及意見。聯絡資料如下：

姓名： \_\_\_\_\_

地址： \_\_\_\_\_

電話： \_\_\_\_\_

電郵： \_\_\_\_\_

## **Appendix XI Research Information Sheet**

# **香港家事調解服務狀況研究**

本研究是由香港特別行政區政府家庭議會委託中央政策組統籌，香港中文大學社會工作學系顧問團隊負責推行的一項有關香港家事調解服務的研究，研究所得資料將協助政府更深入了解現時服務運作的情況，從而計劃有效的政策及服務模式以針對市民的需要。

### **研究目的**

1. 了解家事調解服務使用者的背景和期望。
2. 了解家事調解服務使用者在解決有關離婚問題上的經驗和結果。
3. 比較家事調解服務使用者和非使用者在解決有關離婚問題上的經驗和結果的分別。
4. 了解家事調解服務對減低社會經濟負擔上的成效。
5. 了解家事調解服務對減低服務使用者在經濟和心理負擔上的成效。
6. 了解家事調解服務持份者、服務使用者及其子女對服務所關注的事情。
7. 了解影響使用家事調解服務的因素。

### **研究方法**

1. 研究員向受訪者進行一次半結構化深入訪談(個別深入訪談或聚焦小組)，每次訪談時間約一至兩小時。
2. 如研究員在訪談後發現有資料遺漏，研究員將會再次接觸受訪者以補充資料。

### **顧問團隊主要成員**

黃美菁教授 (香港中文大學社會工作學系助理教授)

馬麗莊教授 (香港中文大學社會工作學系教授)

林子綱律師(柯伍陳律師事務所律師、家事調解員、調解督導員)

黃麗璋博士(私人執業輔導員、家事調解員)

袁芮博士(香港中文大學社會工作學系博士後研究員)

顧問團隊負責人

黃美菁教授

電話：3943 7514

電郵: [mcwong@swk.cuhk.edu.hk](mailto:mcwong@swk.cuhk.edu.hk)

## Appendix XII A Consent Form for Service Users

### 香港家事調解服務狀況研究

#### 服務使用者接受研究訪問及提供個人資料同意書

1. 本人自願參與由香港中文大學社會工作學系顧問團隊負責進行之「香港家事調解服務狀況研究」，並了解是項研究的目的。
2. 本人同意以訪談形式，收集本人意見，並把資料分析。
3. 本人明白在訪談進行中，本人可以提出任何與研究相關的問題，或可以選擇不回答個別問題，甚至可以終止接受訪問。
4. 本人明白在訪談進行中，或許會引起本人一些不愉快的經歷，本人可以選擇不回答個別問題，或終止接受訪問。
5. 在完成此項研究後，本人會獲得書券／禮券乙份以答謝本人的參與。
6. 本人同意把整個訪問過程錄音。
7. 在訪談中記錄的資料，將僅用於是次研究。一切能識別本人身份的資料，將會絕對保密、不被公開，所有記錄亦將於整項研究結束後予以銷毀。

受訪者姓名： \_\_\_\_\_

受訪者簽署： \_\_\_\_\_

日期： \_\_\_\_\_

**Appendix XIII A Consent Form for Parents**

**香港家事調解服務狀況研究**

家長同意書

1. 本人答允子女參加由香港中文大學社會工作學系顧問團隊負責進行之「香港家事調解服務狀況研究」，並了解是項研究的目的。
2. 本人同意以訪談形式，收集子女意見，並把資料分析。
3. 本人明白在訪談進行中，子女可以提出任何與研究相關的問題，或可以選擇不回答個別問題，甚至可以終止接受訪問。
4. 本人明白在訪談進行中，或許會引起子女一些不愉快的經歷，子女可以選擇不回答個別問題，或終止接受訪問。
5. 在完成此項研究後，子女會獲得書券／禮券乙份以答謝參與。
6. 本人同意把整個訪問過程錄音。
7. 在訪談中記錄的資料，將僅用於是次研究。唯一能識別子女身份的資料，將會絕對保密、不被公開，所有記錄亦將於整項研究結束後予以銷毀。

子女姓名：

\_\_\_\_\_

家長姓名：

\_\_\_\_\_

家長簽署： \_\_\_\_\_

日期       ： \_\_\_\_\_

**Appendix XIV A Consent Form for Children**

**香港家事調解服務狀況研究**

子女同意書

本人已閱讀有關是項研究的資料，明白研究的內容、程序及本人參與的部份。本人已答允參加是項研究，本人亦自願參加。本人明白可以選擇不回答個別問題，甚至可以終止接受訪問。本人同意把整個訪問過程錄音。在訪談中記錄的資料將僅用是次研究。一切能識別本人身份的資料，將會絕對保密、不被公開，所有記錄亦將於整項研究結束後予以銷毀。

子女姓名: \_\_\_\_\_

子女簽署: \_\_\_\_\_

日期: \_\_\_\_\_

**Appendix XV A Consent Form for Non-Service Users**

**香港家事調解服務狀況研究**

受訪者接受研究訪問及提供個人資料同意書

1. 本人自願參與由香港中文大學社會工作學系顧問團隊負責進行之「香港家事調解服務狀況研究」，並了解是項研究的目的。
2. 本人同意以訪談形式，收集本人意見，並把資料分析。
3. 本人明白在訪談進行中，本人可以提出任何與研究相關的問題，或可以選擇不回答個別問題，甚至可以終止接受訪問。
4. 本人明白在訪談進行中，或許會引起本人一些不愉快的經歷，本人可以選擇不回答個別問題，或終止接受訪問。
5. 在完成此項研究後，本人會獲得書券／禮券乙份以答謝本人的參與。
6. 本人同意把整個訪問過程錄音。
7. 在訪談中記錄的資料，將僅用於是次研究。一切能識別本人身份的資料，將會絕對保密、不被公開，所有記錄亦將於整項研究結束後予以銷毀。

受訪者姓名：\_\_\_\_\_

受訪者簽署：\_\_\_\_\_

日期：\_\_\_\_\_

## **香港家事調解服務狀況研究**

### 家事調解員/ 家事調解員監督接受研究訪問及提供個人資料同意書

1. 本人自願參與由香港中文大學社會工作學系顧問團隊負責進行之「香港家事調解服務狀況研究」，並了解是項研究的目的。
2. 本人同意以訪談形式，收集本人意見，並把資料分析。
3. 本人明白在進行訪談當中，本人可以提出任何與研究相關的問題，或可以選擇不回答個別問題，甚至可以終止接受訪問。
4. 本人同意將整個訪問過程錄音。
5. 在訪談中記錄的資料，將僅為是次研究所用。一切能識別本人或相關服務使用者的身份的資料，將會絕對保密、不被公開，所有記錄亦將於整項研究結束後予以銷毀。

家事調解員姓名： \_\_\_\_\_

家事調解員簽署： \_\_\_\_\_

日期： \_\_\_\_\_

## Appendix XVII A Consent Form for Stakeholders

### 香港家事調解服務狀況研究

#### 持份者接受研究訪問及提供個人資料同意書

1. 本人自願參與由香港中文大學社會工作學系顧問團隊負責進行之「香港家事調解服務狀況研究」，並了解是項研究的目的。
2. 本人同意以訪談形式，收集本人意見，並把資料分析。
3. 本人明白在進行訪談當中，本人可以提出任何與研究相關的問題，或可以選擇不回答個別問題，甚至可以終止接受訪問。
4. 本人同意把整個訪問過程錄音。
5. 在訪談中記錄的資料，將僅為是次研究所用。一切能識別本人身份的資料，將會絕對保密、不被公開，所有記錄亦將於整項研究結束後予以銷毀。

持份者姓名： \_\_\_\_\_

持份者簽署： \_\_\_\_\_

日期： \_\_\_\_\_

**Appendix XVIII Codes of Informants**

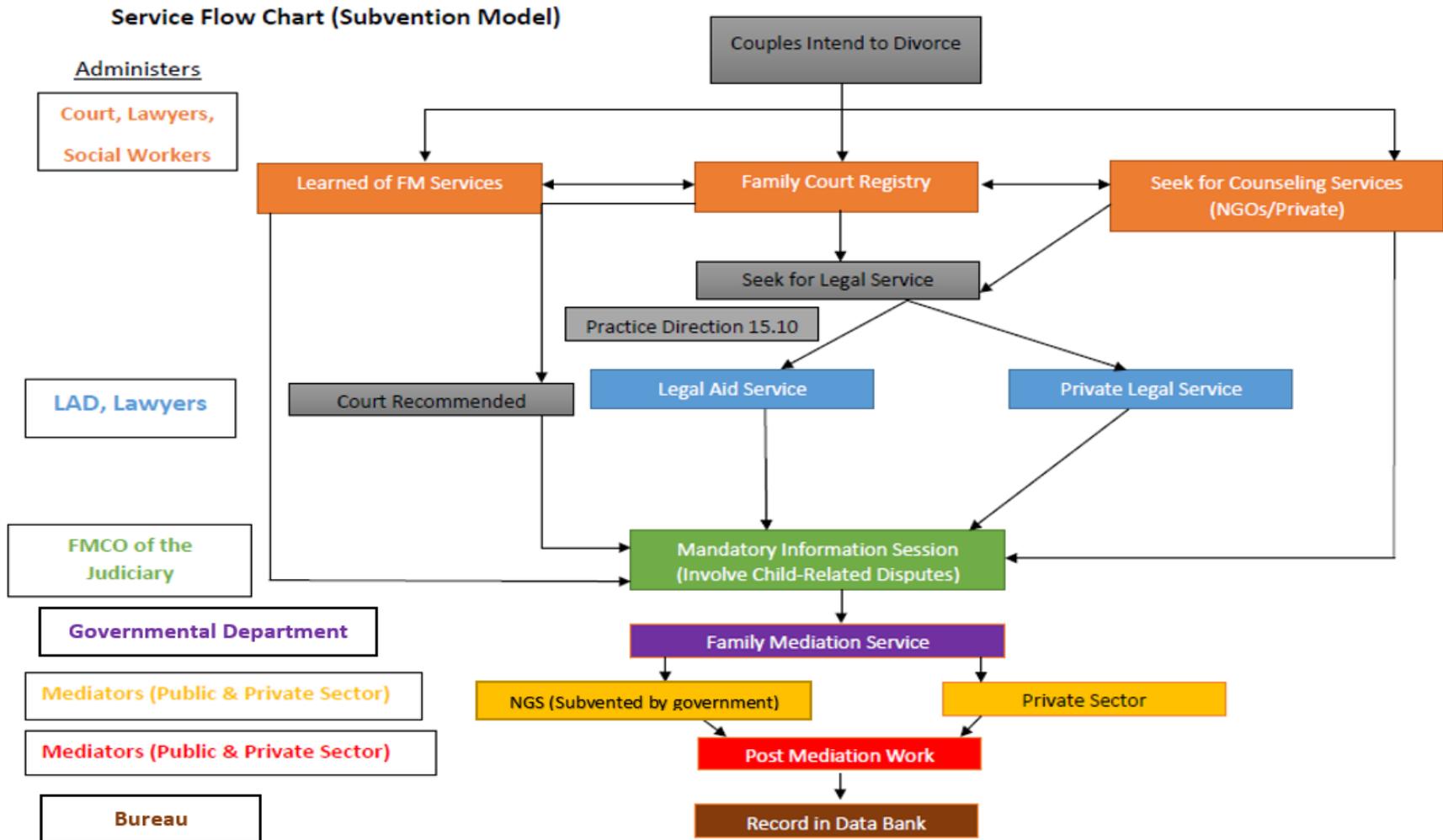
	<b>Code</b>
<b>Expert Informant</b>	1. ST_EI_01 2. ST_EI_02
<b>Service Providers</b>	1. ST_SP_01 2. ST_SP_02 3. ST_SP_03 4. ST_SP_04 5. ST_SP_05 6. ST_SP_06
<b>Service Referrers</b>	1. ST_SR_01 2. ST_SR_02 3. ST_SR_03 4. ST_SR_04 5. ST_SR_05
<b><u>Supervisors and Mediators</u></b>	
<b>Mediators (handle FC cases) NGO</b>	1.FM_FC_NGO_01 2.FM_FC_NGO_02 3.FM_FC_NGO_03
<b>Mediators (handle non-FC cases) NGO</b>	1.FM_NFC_NGO_01 2.FM_NFC_NGO_02 3.FM_NFC_NGO_03
<b>Mediators (handle non-FC cases) Private Sector</b>	1.FM_NFC_PC_01 2.FM_NFC_PC_02 3.FM_NFC_PC_03 4.FM_NFC_PC_04 5.FM_NFC_PC_05 6.FM_NFC_PC_06
<b>Supervisors (handle FC cases) NGO</b>	1.FS_FC_NGO_01 2.FS_FC_NGO_02 3.FS_FC_NGO_03 4.FS_FC_NGO_04 5.FS_FC_NGO_05 6.FS_FC_NGO_06 7.FS_FC_NGO_07 8.FS_FC_NGO_08 9.FS_FC_NGO_09
<b>Supervisors (handle non-FC cases)- NGO</b>	1.FS_NFC_NGO_01 2.FS_NFC_NGO_02 3.FS_NFC_NGO_03

	<b>Code</b>
<b>Supervisors (handle non-FC cases)- Private Sector</b>	1.FS_NFC_PC_01 2.FS_NFC_PC_02 3.FS_NFC_PC_03 4.FS_NFC_PC_04 5.FS_NFC_PC_05
<b><u>Service Users</u></b>	
<b>FC-sponsored NGOs</b>	1.SU_FC_NGO_01 2.SU_FC_NGO_02 3.SU_FC_NGO_03 4.SU_FC_NGO_04 5.SU_FC_NGO_05 6.SU_FC_NGO_06 7.SU_FC_NGO_07 8.SU_FC_NGO_08 9.SU_FC_NGO_09 10.SU_FC_NGO_10 11.SU_FC_NGO_11 12.SU_FC_NGO_12 13.SU_FC_NGO_13 14.SU_FC_NGO_14 15.SU_FC_NGO_15 16.SU_FC_NGO_16 17.SU_FC_NGO_17 18.SU_FC_NGO_18 19.SU_FC_NGO_19 20.SU_FC_NGO_20 21.SU_FC_NGO_21

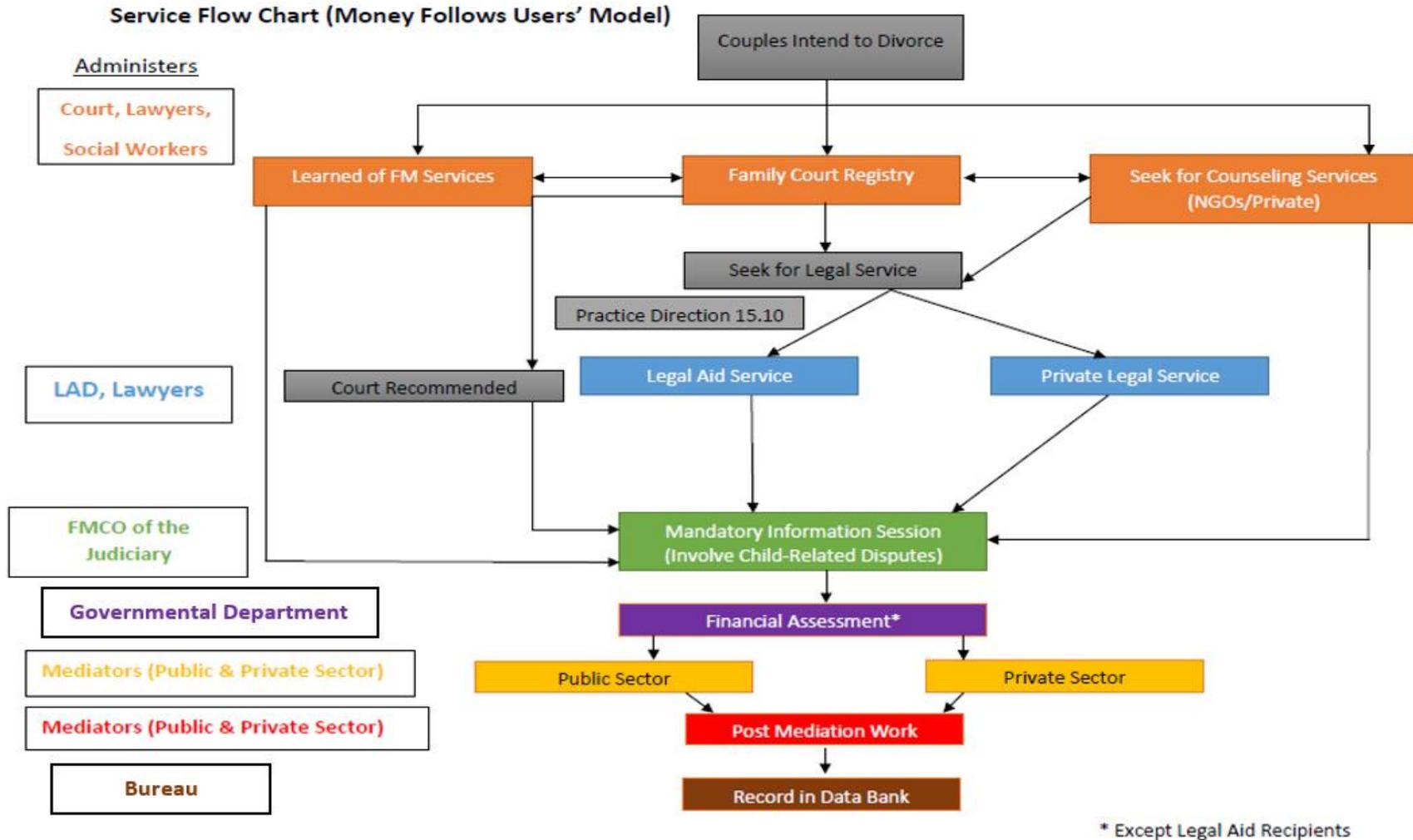
**Appendix XVIII Codes of Informants (Con't)**

	<b>Code</b>
<b>Service Users: Non-FC sponsored NGOs</b>	1.SU_NFC_NGO_01 2.SU_NFC_NGO_02 3.SU_NFC_NGO_03 4.SU_NFC_NGO_04 5.SU_NFC_NGO_05 6.SU_NFC_NGO_06 7.SU_NFC_NGO_07 8.SU_NFC_NGO_08 9.SU_NFC_NGO_09 10.SU_NFC_NGO_10 11.SU_NFC_NGO_11 12.SU_NFC_NGO_12 13.SU_NFC_NGO_13 14.SU_NFC_NGO_14 15.SU_NFC_NGO_15 16.SU_NFC_NGO_16 17.SU_NFC_NGO_17
<b>Non-FC Sponsored (Private Sector)</b>	1. SU_NFC_PC_01 2. SU_NFC_PC_02
<b>Non-service users (NGO)</b>	1.NSU_NGO_01 2.NSU_NGO_02 3.NSU_NGO_03 4.NSU_NGO_04 5.NSU_NGO_05 6.NSU_NGO_06 7.NSU_NGO_07
<b>Non-Service Users (Private Sector)</b>	1.NSU_PC_01
<b><u>Children</u></b>	
<b>FC-sponsored Cases (NGO)</b>	1.CH_FC_NGO_01 2.CH_FC_NGO_02 3.CH_FC_NGO_03 4.CH_FC_NGO_04 5.CH_FC_NGO_05
<b>Non-FC sponsored Cases (NGO)</b>	1.CH_NFC_NGO_01 2.CH_NFC_NGO_02 3.CH_NFC_NGO_03 4.CH_NFC_NGO_04 5.CH_NFC_NGO_05

**Appendix XIX The Service Delivery Process – Option 1**



**Appendix XX The Service Delivery Process – Option 2**



**Appendix XXI List of Research Team Members**

<b>Professor Mooly Mei-Ching WONG</b>	Principle Investigator
<b>Professor Joyce Lai-Chong MA</b>	Co-Investigator
<b>Ms. Tze-Yan LAM</b>	Co-Investigator
<b>Dr. Lai Cheung WONG</b>	Co-Investigator
<b>Dr. Rhea Rui YUAN</b>	Co-Investigator
<b>Dr. Lily Xia</b>	Research Assistant
<b>Ms. Charlotte Wong</b> (up to 15 <sup>th</sup> June, 2016)	Research Assistant
<b>Mr. Jason Leung</b> (From 15 <sup>th</sup> June, 2016)	Research Assistant