

Singapore Management University

Institutional Knowledge at Singapore Management University

Research Collection Yong Pung How School Of
Law

Yong Pung How School of Law

1-2013

Hong Kong's new year's resolution: A single mediator accreditation body

Nadja ALEXANDER

Singapore Management University, nadjaa@smu.edu.sg

Follow this and additional works at: https://ink.library.smu.edu.sg/sol_research



Part of the [Asian Studies Commons](#), and the [Dispute Resolution and Arbitration Commons](#)

Citation

ALEXANDER, Nadja. Hong Kong's new year's resolution: A single mediator accreditation body. (2013).

Available at: https://ink.library.smu.edu.sg/sol_research/3336

This Blog Post is brought to you for free and open access by the Yong Pung How School of Law at Institutional Knowledge at Singapore Management University. It has been accepted for inclusion in Research Collection Yong Pung How School Of Law by an authorized administrator of Institutional Knowledge at Singapore Management University. For more information, please email cherylds@smu.edu.sg.

Hong Kong's New Year's Resolution: A Single Mediator Accreditation Body

Nadja Alexander (Editor) (Singapore International Dispute Resolution Academy)/January 13, 2013

Well, the New Year is a time for reflections, making new resolutions and fresh starts. In Hong Kong the 1st of January 2013 saw a fresh start for the mediation regulatory regime with the coming into force of the **Mediation Ordinance** (MO), which I wrote about last month.

But it's not just the MO, which is likely to inject anticipation and activity into the mediation landscape in Hong Kong in 2013. A new mediator accreditation regime is on it's way ...

You see it all started in 2008 with the Working Group on Mediation, chaired by the then Secretary for Justice Wong Yan Lung. A cross sector body, the Working Group comprised representatives from the DOJ, the Judiciary, the Legal Aid department, legal professional bodies, universities and ADR organisations. Its purpose was to review the development of mediation services in Hong Kong following the October 2007 policy address of the then Chief Executive of the HKSAR, Donald Tsang 'to map out plans to employ mediation more extensively and effectively in Hong Kong in handling higher and commercial disputes and relatively small-scale local disputes.' In 2010 the Working Group made **recommendations** in relation to:

- the legal framework for mediation, which has resulted in the **MO**;
- public education and publicity, which has resulted in numerous television and radio awareness advertisements and an **international conference**.
- training and accreditation.

In relation to training and accreditation, the Working Group considered that the establishment of a single body for accrediting mediators would be desirable in Hong Kong. It took the view that such a body could assist to ensure the quality of mediators, consistency of standards, education of the public about mediators and mediation, enhance public confidence in mediation services and maintain credibility of mediation (Recommendation 25). Further, the suggestion was made that such a body might take the form of a company limited by guarantee (Recommendation 28).

However, the Working Group **also** took the view that it was too early for the establishment of such a body (Recommendation 26) and that the situation should be reviewed in 2015 (Recommendation 28).

The Working Group published a mediator's code of conduct, called the **Hong Kong Mediation Code** and recommended its wide promulgation among mediation service providers (Recommendation 27).

With the publication of the Report, the Working Group engaged in a three-month public consultation on the Report's recommendations. And it is here that an interesting thing happened. During the consultation period, the majority of submissions favoured the establishment of a single mediator accreditation body as soon as practicable rather than the Working Group's suggestion to think about it again in five years time. Moreover public feedback strongly endorsed the idea of such a single body as the premier accreditation organisation for mediators in Hong Kong, discharging ongoing accreditation, assessment and disciplinary functions. These sentiments seem to resonate with **Jeffrey Krivis**' comments that 'the legal world is wondering why mediators don't have some professional requirements, such as continuing education, grievance procedures, or other annual requirements to maintain their license'.

So the Working Group's recommendation to wait five years was jettisoned. As a result, the Mediation Taskforce, established to implement the Working Group's recommendations, was also tasked with creating a single Hong Kong mediator accreditation body.

After nearly two years of sometimes turbulent negotiations with the major accreditation stakeholders, HKMAAL was born. HKMAAL stands for the Hong Kong Mediation Accreditation Association Ltd and by the way, it is pronounced, "H. K. mall"—as in shopping mall; yes, how very Hong Kong!

The objectives of HKMAAL are:

- To set standards for accredited mediators, supervisors, assessors, trainers, coaches and other professionals involved in mediation in Hong Kong, and to accredit them on satisfying the requisite standards;
- To set standards for relevant mediation training courses in Hong Kong, and to approve them on satisfying the requisite standards;
- To promote a culture of best practice and professionalism in mediation in Hong Kong.

HKMAAL is a non-statutory, industry-led body. Incorporated on 28 August 2012, it takes the legal form of a company limited by guarantee and in this regard follows Recommendation 28 of the Working Group. The four founder members of HKMAAL are the Hong Kong Bar Association, the Law Society, Hong Kong

International Arbitration Centre and the Hong Kong Mediation Centre — four major stakeholders in the development and promotion of mediation in Hong Kong.

When membership of HKMAAL opens up, it will be limited to organisations and will not extend to individuals. A body which joins HKMAAL will be required to terminate its own existing accreditation system. It is anticipated that all accreditation assessments will be conducted by HKMAAL and no longer by the ADR organisations that previously conducted them. This will lead to major shifts in Hong Kong's mediation world as assessing mediators has been a lucrative source of income for many ADR organisations.

At the time of writing HKMAAL's accreditation and assessment standards have yet to be articulated, however it is likely that HKMAAL will follow the standards of the major accrediting bodies in Hong Kong, that is a 40 hour training course that meets certain specifications followed by practical role-play assessments. CPD requirements are also expected to be put in place.

HKMAAL is now working on the following issues:

- Guidelines for the admission of members to HKMAAL;
- The formulation of an accreditation system, grandparenting policy and procedure and standards for mediation training courses;
- A complaint and disciplinary procedure.

Areas of future work are likely to include the establishment of panels of mediators, supervisors, assessors, trainers and so on, a review and update of the Hong Kong Mediation Code and the development of research guidelines for collection of information in relation to mediation.

The founder members of HKMAAL held their first briefing for stakeholders and potential members in October 2012. Thus far HKMAAL enjoys the support of the government, the judiciary and the major mediation bodies in Hong Kong. However it has a long way to go and this is just the beginning.

It is anticipated that HKMAAL will be 'open for business' on 2 April 2013.