

Evaluation Study on  
The Pilot Scheme on Family Mediation

**Interim Report**

A Consultancy Study Commissioned by the Judiciary  
of the Hong Kong Special Administration Region  
to the Hong Kong Polytechnic University

April 12, 2002

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## **Interim Report: Executive Summary**

### **Evaluation Study on the Pilot Scheme on Family Mediation**

**April 12, 2002**

1. This interim report presents the main findings of the consultancy study on the Pilot Scheme on Family Mediation. It covers the period from 2<sup>nd</sup> May 2000, when the Pilot Scheme started, to January 2002. As an interim report, the findings and the recommendations presented herein are tentative. They are subject to modifications and refinement in the light of new data collected during the remaining period of the study.
2. For the purposes of this study, the data were collected from a variety of sources, including official data from the Mediation Coordinator's Office and the Family Court Registry, and in-depth interviews with service users, mediators and referrers. Besides, quantitative data were collected through a users' satisfaction survey and two telephone polls on public attitudes on the family mediation service in Hong Kong (see paragraph 12).
3. Results of the two public attitude surveys show that between 21% and 25% of the public had heard of the Pilot Scheme (para. 14). Media was an important source through which they learned of the Scheme (para. 15). Compared with litigation, the public favourably regarded the family mediation service and considered that it should be widely promoted as a means to resolve family disputes (para. 24 and 26). Family mediation was preferable to litigation for a number of reasons: -
  - It saved time (para. 17).
  - It reduced financial costs (para. 18).
  - It did less harm to family relationships (para. 19).
  - It gave parties concerned more opportunities to express their views and concerns in the dispute resolution process (para. 20).
  - It led to more sustainable agreements (para. 21).
  - It enabled parties to have better communication (para. 22).
  - It helped the parties to cooperate better in their parental roles in the post divorce stage (para. 23).
4. Data collected from the Mediation Coordinator's Office configure the following profile of the service users: -
  - The majority of them were married for 5 to 14 years, had children and were in their thirties and forties (para. 27a).
  - Slightly over half of them had an education up to secondary level (para. 27b).
  - About half of them were "white collar" (para. 27c).
  - More than 80% of male users and about 60% of the female users were income-earners (para. 27d, 27e). The median incomes for male and female users were \$11,500 and \$5,500 respectively (para. 27f).

- Female users were nearly twice more likely to be legally represented than male users. They were also more likely to receive legal aid (para. 29).
5. As far as service delivery and outcomes are concerned, official statistics in the Mediation Coordinator's Office show that: -
- A total of 1,670 persons attended 294 information sessions up to 13<sup>th</sup> November 2001 (para. 33).
  - 87.8% of the attendees went through initial assessment in the MCO, which resulted in 547 cases being referred out to SWD (28.7%), NGOs (33.8%) and private practitioners (37.5%) for mediation service (para. 34 & 39).
  - Around 60% of the cases had completed initial assessment for suitability of mediation and referred to mediators by the Mediation Coordinator within a month (para. 40). About three quarters of the cases took less than three months for mediators to complete (Appendix B, table30).
  - Of the 458 cases completed between 2.5.2000 and 13.11.2001, 71.4% reached full agreement and another 8.5% partial agreement (para. 45).
  - By-sector analysis shows that SWD mediators had the highest (81%) full agreement rate and took the least number of hours to conclude a mediated case (para. 48).
  - On the average, it took 10.18 hours to reach a full, 14.35 hours to reach a partial, and 6.3 hours to reach no agreement (para. 50).
6. As far as users' satisfaction is concerned, results of the Users' Satisfaction Survey show that: -
- Almost 80% of the respondents expressed that they were "satisfied" or "very much satisfied" with the mediation service they received (para. 52).
  - More than 60% of the respondents agreed that they were able to discuss disputed issues with their spouses through mediation service in a peaceful and reasonable manner (para. 55-56).
  - More than 80% of the respondents reported that their mediators had been neutral and impartial in the course of the mediation service (para. 57a).
  - Nearly all of them replied in the negative when asked if their mediators had ever made decisions for them (para. 57d).
7. In-depth interviews with service users reveal that they had rather positive experience in using the service: -
- Mediation service saved users' time and money (para. 58a).
  - Mediation service provided them with good educational experience on how to proceed constructively with divorce (para. 58b).
  - Mediation service reduced tension for both parties with agreement reached (para. 58d).
  - Mediation service facilitated dialogues on matters related to divorce (para.58e).

Views have also been expressed on a number of issues, as follows: -

- Users were ready to pay a certain amount of fee, though a free service was welcome (para. 67).
  - The name of the service was misleading to some users (para. 68).
  - The work of mediators and lawyers sometimes ran into conflict (para. 74).
8. In-depth interviews with mediators and referrers were conducted to gauge their views on the service. Below is a summary of their views on key issues: -
- There was considerable sympathy for a compulsory service (para. 79).
  - There was general support for fee-charging (para. 80).
  - Mediation speeded up legal proceedings (para. 81).
  - Mediation was a much less costly service (para. 82).
  - A ‘serial approach’, i.e. mediation before legal service, rather than a ‘parallel approach’, or one in which mediation was referred by court during ancillary proceedings, could work out better in terms of reducing one service’s interference with the other (para. 83).
9. Depending on the nature of disputes, the court-sitting time for divorce petitions can range from less than an hour to several weeks. Cases with no disputed items are generally having the shortest court-sitting time. The amount of court time saved can be an indicator of the ‘efficiency’ of the service. The research team is analyzing relevant court data with a view to estimating the average court time used in settling various disputed issues and will report its findings in the next report (para. 85-87).
10. Based on the analysis of the data collected so far, the research team has the following observations on the Pilot Scheme: -
- There is considerable evidence that family mediation is a viable option for dispute resolution in Hong Kong.
  - Though there was sympathy for a compulsory service among mediators, this would be at odds with the voluntary nature of the service. The form of the service, i.e. whether it be compulsory or voluntary, is an issue to be carefully considered.
  - The name of the service is an issue as it was sometimes mistaken to be a marital reconciliation service.
  - There is a need to reconsider the role of the mediation coordinator, especially in relation to her role in screening cases.
  - Different service providers appear to appeal to different categories of users. Thus, a pluralistic model of service is believed to be able to cater to more diverse needs.
  - The ‘cross-talk’ between family mediation and legal service is an issue as the work of the lawyers often conflict with that of the mediators. A serial mode of service appears to be more preferable to a parallel mode.
  - A totally free service may not be in the best interest of the users. Some fee-charging is acceptable and may increase the motivation of service users to better utilize the service.

11. In the light of the findings gathered so far, and bearing in mind that this is an interim report and that data collection is still going on, the research team recommends the following for the Judiciary's consideration: -
  - a. To consider continually funding the scheme on family mediation service on a long-term basis.
  - b. To require applicants for legal aid service to attend information sessions at the MCO.
  - c. To consider to change the name of the service to make sure that there is no misunderstanding of its nature.
  - d. To re-examine the role of the MCO, specifically over the approach that should be taken in screening cases.
  - e. To maintain the current pluralistic model of service. This model caters to the diverse needs of service users and reflects the diversified nature of existing service providers. It is preferred to a unitary model of service, one dominated by just one type of service providers.
  - f. To maintain mediation as an option for couples throughout the entire divorce and ancillary proceedings, whether or not they choose to receive it at an earlier stage.
  - g. For legal aid clients, a serial mode of service whereby mediation precedes legal service is preferred to both services running concurrently.
  - h. Should family mediation be offered on a long-term basis, a fee-charging mechanism could be introduced for users able to afford the service.

## **Interim Report**

### **Evaluation Study on the Pilot Scheme on Family Mediation**

**April 12, 2002**

#### **Introduction**

1. Divorce is a significant life event which not only affects the male and female parties involved but also impacts on the development and well-being of children. Family disputes arising from divorce, if not satisfactorily settled, add agony to every party. In the past, family disputes were usually settled through litigation. Over the last two decades, however, mediation has emerged as an alternative approach to dispute resolution.
2. As a non-adversarial family dispute resolution process, family mediation is guided by the assumption that separating and divorcing couples can reach an agreement fair to both parties through their own negotiation. It has gained acceptance over the years and is now practiced in a growing number of countries, including the following: -

#### England

- Conciliation was recommended in 1974 as an established part of the divorce court procedure in the Report of the Committee on One-Parent Families.<sup>1</sup>
- In 1985, the Matrimonial Causes Procedure Committee endorsed the value of out-of-court conciliation.<sup>2</sup>
- The White Paper ‘*Looking to the Future – Mediation and the Ground for Divorce*’ of 1993 suggested reforms to include couples’ use of mediation to resolve their disputes about divorce and ancillary matters.<sup>3</sup>
- The Family Law Act 1996 required that a party making a statement of marital breakdown must have attended an information meeting not less than 3 months before.
- The Evaluation Report on the Information Meetings (2001) suggested further promotion of conciliatory divorce by making mediation practice more flexible and attractive.<sup>4</sup>

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<sup>1</sup> See *The Law Reform Commission of Hong Kong Sub-committee on Guardian and Custody Consultation Paper, 1998.*

<sup>2</sup> Same as above.

<sup>3</sup> Same as above.

<sup>4</sup> *Summary of the Final Evaluation Report on the Information Meetings and Associated Provisions within the Family Law Act of 1996, 2001.*

### Australia

- In 1990, the Chief Justice of the Family Court established a Sub-Committee on Mediation in the Family Court.
- In January 1992, a pilot mediation program was launched. It featured voluntary participation of both parties, comprehensive mediation, and use of co-mediation model.
- In 1994, an evaluation study entitled Evaluation of the Family Court Mediation Service concluded that ‘a voluntary, comprehensive mediation, when provided by trained mediators familiar with family law and the personal dynamics of the separation process, can be effective in resolving a wide variety of disputes in a lasting manner and to the satisfaction of its clients’.<sup>5</sup>

### The United States

- The Family and Conciliation Court in Los Angeles was created in the late 1930s. However, it remained relatively isolated until the late 1970s, when the conditions to support a family mediation movement were ripe.<sup>6</sup>
- Since the mid 1990s, alternative dispute resolution in general and family mediation in particular have been formally recognized, available in most jurisdictions, and mandated in some states, notably California.<sup>7</sup>

### Canada

- The Federal Ministry of Health and Welfare in Canada established the ‘Divorce Counselling and Family Affairs Unit’ in 1969 to fund and promote court-based conciliation services across Canada.
- In 1972, the first conciliation court demonstration project was set up in Edmonton, Alberta. It was made permanent in 1975 under the title Family Conciliation Services.
- By 1984, family mediation in divorce was available in virtually every province and both territories in Canada. More recent development has seen the growth of family mediation in divorce in the private sector.<sup>8</sup>

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<sup>5</sup> See *Family Court of Australia Research and Evaluation Unit Research Report No. 12*, 1994, p.146.

<sup>6</sup> See Irving, H.H., Benjamin, M. (1995). *Family Mediation: Contemporary Issues*. Thousand Oaks: Sage.

<sup>7</sup> See Emery, R.E. (1994). *Renegotiating Family Relationships: Divorce, Child Custody, and Mediation*. New York: Guilford; Saposnek, D.T. Hamburg, J., Delano, C.D., Michaelson, H. (1984). “How has mandatory mediation fared? Research findings of the first year’s follow-up.” *Conciliation Courts Review*, 22, 7-19.

<sup>8</sup> Irving, H.H., & Benjamin, M. (1987). *Family Mediation: Theory and Practice of Dispute Resolution*. Toronto : Carswell.



3. In line with the development of family mediation as a means of dispute resolution, since the late 1980s, a small number of social workers and lawyers in Hong Kong have been responding to the needs and problems of separating and divorcing couples by undergoing specialist training on family mediation or dispute resolution, and by offering mediation service through their employing agencies or through private practice. There were three NGOs providing divorce mediation service on a voluntary basis to couples considering divorce. The Hong Kong Catholic Marriage Advisory Council pioneered the Marriage Mediation Counselling Project in 1988. The Hong Kong Family Welfare Society launched its divorce mediation service in 1997. In the same year, Resource: the Counselling Centre also started its mediation service.
4. Divorce is a growing problem in Hong Kong. The number of divorce cases has increased sharply over the past two decades. In 1981, departing couples filed 2,811 divorce petitions. The figure rose to 6,767 in 1990 and to 13,737 in 2001. According to the Hong Kong SAR Judiciary, 13,425 divorce *Decrees Absolute* were granted in 2001, six times the number (2,060) granted in 1981.
5. Of all divorce petitions filed with the Family Court each year, approximately 10% are cases with disputes that need to be settled in the ancillary proceedings. In 1999, for example, there were all together 11,874 divorce petitions with *Decree Absolute* granted. Of these petitions, 9.8% (1,166) were disputed and 91.2% (10,708) not disputed. A very big amount of public money was annually spent on legal aid costs to help divorce-seeking couples. In 2000-01, for instance, approximately one-third (\$144 million, or 36%) of the civil legal aid cost was spent on about 5,000 matrimonial cases, which included both disputed and non-disputed cases.
6. In 1995, mediation was brought up for discussion by the Working Group to Review Practices and Procedures Relating to Matrimonial Proceedings. Members of the Working Group supported the concept of mediation services as an option in contested matrimonial proceedings.<sup>9</sup> However, because of the lack of a pool of qualified mediators, it was recommended that the option be examined again when a reasonable pool of professionally qualified mediators was available.
7. In October 1997, the Chief Justice appointed a Working Group to consider a pilot scheme for the introduction of mediation into family law litigation in Hong Kong. In its report completed in 1999, the Working Group recommended that a 3-year pilot scheme be run to test the effectiveness of mediation in resolving matrimonial disputes in Hong Kong. In June 1999, the Mediation Coordinator's Office (MCO) was set up to implement a pilot scheme funded and monitored by the Judiciary.

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<sup>9</sup> See *Report of the Working Group to Consider a Pilot Scheme for the Introduction of Mediation into Family Law Litigation in Hong Kong*. (1999).

8. On May 2, 2000, the Judiciary of the Hong Kong Special Administrative Region officially launched a 3-year Pilot Scheme on Family Mediation. The Pilot Scheme requires that there be an evaluation study to examine its efficiency and effectiveness and its impacts on the existing social and legal systems. Before the Pilot Scheme was launched, the Judiciary commissioned a research team from the Department of Applied Social Sciences at the Hong Kong Polytechnic University to carry out the study in May 2000. The project was to last for 3 years.
9. This *Interim Report* highlights the progress and findings up to January 2002. It outlines the research methods used in the study, public perception of the Pilot Scheme, profile of mediation service users, mechanism of service delivery, and opinions from service users and service providers. As data are still being collected on the ongoing pilot project, findings presented in this Interim Report cannot but be tentative.

### ***Research Questions and Issues***

10. In pursuance of the objectives of this study, the research team seeks answers to the following research questions:
  - a. Who use the service? Who are they? What is their profile like?
  - b. Is the service known to and accepted by the public?
  - c. How has it been implemented?
  - d. Are users satisfied with the service and its outcomes? How satisfied are they?
  - e. Is the service efficient and effective?
11. Analysis of the data so far gathered have also highlighted a number of issues:
  - a. Having regard to the efficiency and effectiveness of the service, should the government continue to fund the project?
  - b. If the government is to continue funding the project, should the service be made mandatory or voluntary?
  - c. Who should be the providers of mediation service in Hong Kong, the public sector, the market, or both?
  - d. How should mediation be interfaced with other services, particularly legal aid?
  - e. Should service users pay for the service?

## **Research Methods**

12. In view of the complexities of the systems embedding family mediation service, data and information have been collected via multiple methods and sources. These include:
  - a. official data and record from MCO;<sup>10</sup>
  - b. official data from the Family Court Registry;<sup>11</sup>
  - c. in-depth interviews with service users;<sup>12</sup>
  - d. in-depth interviews with mediators;<sup>13</sup>
  - e. in-depth interviews with referrers;<sup>14</sup>
  - f. a *Users' Satisfaction Survey*;<sup>15</sup>
  - g. two surveys on public opinion and attitudes.<sup>16</sup>

## **Findings I: Public Perceptions of the Service**

13. To gauge public perceptions in terms of their understanding and acceptance of the Pilot Scheme, two opinion polls were conducted, the first one in September 2000 and the second one in January 2002, with the help of the Computer-Assisted Survey Team (CAST) of the Centre for Social Policy Studies at the Hong Kong Polytechnic University. The first survey sampled 828 individuals and the second survey sampled 915 individuals. In both surveys, the population consisted of all households with registered telephone lines in Hong Kong. Respondents were randomly selected adults aged 18 or above. The main findings from the two telephone surveys are presented in Appendix A of this report.

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<sup>10</sup> A data file is being constructed for all cases using the Pilot Scheme between 2<sup>nd</sup> May 2000 and 1<sup>st</sup> May 2003. Up to January 2002, 408 cases covered till end of November 2001 have been captured. Another batch of 73 year-2001 cases completed before the end of 2001 had been made available to the research team by MCO but they were not analyzed in this report due to time constraints. Basic statistic tables are given in Appendix B.

<sup>11</sup> The Family Court Registry provided data on personal particulars, divorce dispute items, and divorce proceeding outcomes on 9 October 2001, which covered cases filed up to 30 May 2001. Data are going to be updated by the Family Court Registry.

<sup>12</sup> By the end of January 2002, 103 interviews (including 41 male parties, 50 female parties and 12 children) from 52 Pilot Scheme cases were completed.

<sup>13</sup> 13 mediators were interviewed in mid-2001.

<sup>14</sup> 14 referrers were interviewed in mid-2001.

<sup>15</sup> 238 Pilot Scheme users were interviewed on the phone. Besides, 110 users could not be reached and 8 users refused to be interviewed on the phone. 102 users were not contacted because either they had given no consent to interview or they had no mediation sessions. We are reaching the other 404 users for interviews. Basic statistic tables are given in appendix C.

<sup>16</sup> The first Public Attitude Survey was conducted between 7<sup>th</sup> and 9<sup>th</sup> September 2000 (N=828). The second survey was conducted between 14<sup>th</sup> and 17<sup>th</sup> January 2002 (N=915). Basic statistical tables are given in Appendix A.

***How Many Know the Pilot Scheme on Family Mediation and How?***

14. Table 8 in Appendix A shows that about a quarter (25.0%) of the respondents in the first survey had heard of the Pilot Scheme on Family Mediation. The percentage of respondents having heard of the Pilot Scheme dropped to 21.1% in the second survey, reflecting, perhaps, the fact that publicity on the Pilot Scheme had tapered off during the period.
15. As can be seen from Table 9, the media had played an important role in making the Pilot Scheme known to the public. In the first survey, 73.0% of the respondents learned of the Scheme from the television or radio and 38.0% of them did so from newspapers or magazines. In the second survey, 69.0% of the respondents reported that they heard of the Pilot Scheme from the television/radio and 33.0% of them reported that they did so from newspapers/magazines. In both surveys, only a small percentage of the respondents gained knowledge of the Scheme from social service or legal professionals.

***Comparison of Family Mediation with Litigation by the Public***

16. Respondents in both surveys were asked to compare family mediation with litigation on 7 substantive aspects, including whether or not they thought family mediation (1) save time, (2) reduce financial costs, (3) minimize trauma and acrimony, (4) enable divorcing parties to participate more in the process, (5) enable parties to better comply with agreements reached through mediation, (6) cause parties to have better communication in the dispute resolution process, and (7) help parties to cooperate better in their parental roles in the post-divorce stage.

*Does Family Mediation Save Time?*

17. As Table 10 (Appendix A) shows, 68.0% of the respondents in the first survey considered that family mediation saved time in reaching agreements on family disputes as compared with litigation. In the second survey, the percentage of respondents holding this view increased to 75.2%, suggesting that as many as 3 out of 4 people in Hong Kong believed more time could be saved through family mediation.

*Does Family Mediation Reduce Financial Costs?*

18. Table 11 (Appendix A) shows that the majority of the respondents in both surveys believed that resolving disputes through litigation was financially more costly. Nearly 74% of the respondents in the first survey and 81.1% of the respondents in the second survey took the view that family mediation was a less costly approach.

*Does Family Mediation do Less Harm to Family Relationships?*

19. The view was widely shared that, compared with litigation, family mediation did less harm to family relationships. Table 12 (Appendix A) shows that 61.6% of the respondents in the first and 68.6% of the respondents in the second survey held the view that family mediation caused less trauma and acrimony to divorcing parties.

*Does Family Mediation Render Divorcing Parties More Opportunities to Express Their Views and Concerns in the Dispute Resolution Process?*

20. Table 13 in Appendix A shows that 71.3% of the respondents in the first survey and 80.3% in the second survey agreed with the view that family mediation provided divorcing parties with more opportunities to express their views and concerns in the dispute resolution process.

*Are Agreements Reached Through Family Mediation More Sustainable?*

21. There was less public confidence in the sustainability of agreements reached through family mediation. As can be seen from Table 14 in Appendix A, not too many respondents were positive about whether or not divorcing parties were more likely to comply with agreements reached by family mediation. Less than half (47.8%) of the respondents in the first survey and just over half (53.6%) of the respondents in the second survey took the view that agreements reached through family mediation were sustainable.

*Can Family Mediation Enable the Parties to Have Better Communication?*

22. It was generally believed that disputing couples communicated better with each other in the presence of a mediator. As can be seen from Table 15 (Appendix A), almost 70% of the respondents in the second survey believed that divorcing parties were better able to communicate with each other through the family mediation service. Only less than 10% of the respondents did not think so.

*Can Family Mediation Help Parties Cooperate Better in Their Parental Roles?*

23. As an adversarial process, litigation often aggravates the already poor relationship between the divorcing parties. This in turn hinders their cooperation in their parental roles in the post-divorce stage. Table 16 shows that 62.9% of the respondents in the first and about 70% of the respondents in the second survey took the view that, compared with litigation, family mediation helped the divorcing parties cooperate better in their parental roles.

### ***Which is Better, Litigation or Mediation?***

24. In both surveys, the majority of the respondents preferred family mediation to litigation for settling family disputes arising from divorce. Table 17 in Appendix A shows that almost 80% of the respondents in the first and 86% of the respondents in the second survey regarded family mediation as better than litigation. Only 6.6% and 2.8% of the respondents in the first and second surveys respectively regarded otherwise.

### ***Should Family Mediation be Further Promoted as a Means to Resolve Family Disputes?***

25. Consistent with the positive views expressed above, an overwhelming majority of the respondents in both surveys agreed that family mediation should be further promoted as a means to resolve family disputes. Table 18 shows that 85.6% of the respondents in the first and 97.8% of them in the second survey endorsed the service.
26. These are very positive results, suggesting that the public was generally receptive to the idea of family mediation as an alternative approach to resolving divorce disputes. The results also suggest that support of the Pilot Scheme had been growing over time.

## **Findings II: Profile of Service Users**

### ***Who Used the Service?***

27. Analysis of the data captured from MCO-held records of 408 mediation cases (816 users) completed by November 2001 (Tables 1 to 31 in Appendix B) configure the following profile of the service users:
- a. Three-quarters (73.3%) of the male and over four-fifths (85.3%) of the female users were in their thirties and forties. About half (51.0%) of them were married for between 5 and 14 years. One-tenth (11.0%) of the couples were childless and around three-quarters (71.3%) of them had one to two children (Tables 1, 2 and 12, Appendix B).
  - b. About one-fifth of the male (18.4%) and female (20.3%) users had received an education up to primary level. Over half of the male (56.2%) and female (58.5%) users had an education up to secondary level. About one-fifth of the male (18.2%) and one-tenth of the female (11.8%) had a tertiary education (Table 6 and 7, Appendix B).
  - c. 45.1% of the male users were 'white collar' and 38.3% of them were 'blue collar'. Of the female users, about half (49.8%) were in 'white collar' jobs and one-third (32.1%) were 'home-makers'. As many as one-sixth (16.7%) of the male users and one-tenth (8.6%) of the female users were either retired or unemployed (Tables 8 and 9, Appendix B).

- d. In terms of monthly income, of the male parties, about one-fifth (21.1%) were earning less than \$10,000, about one-third (36.5%) earning between \$10,000 and \$24,999 and about one-fifth (21.3%) earning more than \$25,000. Slightly over one-fifth (22.1%) of the male parties had either irregular or no income (Tables 10, Appendix B).
- e. As for the female parties, two-fifth (42.4%) of them had either irregular or no income. Close to one-fourth (26.5%) were earning less than \$10,000 a month. One-fifth (20.9%) were earning between \$10,000 and \$24,000 a month and about one-tenth (10.3%) were earning more than \$25,000 a month (Table 11, Appendix B).
- f. Female users were earning significantly less than their male counterparts. The median income of female and male users was respectively \$5,500 and \$11,500.

***From Where Did Users Learn of the Service***

- 28. As shown in Table 1 below, significantly more male users (51.7%) learnt of the service from their partners than did their female counterparts (25.0%), suggesting that female parties were more often the ones initiating the service. Compared to their male counterparts, female parties were more likely to have learnt about the service from lawyers, social workers, and from the family court registry. On the whole, female users appeared to have more exposure and better access to mediation information provided through concerned professionals than male users.

*Table 1 Sources of Knowledge of Mediation Service, in %*

	Male Users	Female Users
Partners	51.7	25.0
Lawyers	17.9	35.5
Social Workers	6.0	9.7
Family Court Registry	5.0	8.3
Media	17.5	16.7
Friends/relatives	1.9	4.8
Total	100.0% (N=402)	100.0% (N=400)

Source: MCO Records (cases completed by November 2001)

### ***Use of Legal Service***

29. Over half of the 816 service users had commenced legal proceedings when applying for mediation service. More female parties (60.1%) were legally represented than male parties (33.3%) and more legally represented female parties (58.0%) received legal aid than their male counterparts (35.8%).

### ***Items of Dispute***

30. In descending order, the items most in dispute among divorcing couples seeking mediation service, as reported (separately by male and female parties) to the MCO and picked up by mediators, were 'financial support for spouse', 'financial support for children', 'child custody', 'child access', 'accommodation/property', and 'financial matters'. 'Financial support for spouse' was the most and 'financial matters' the least disputed item.

## **Findings III: Service Delivery and Outcomes**

### ***Commencement of the Pilot Scheme on Family Mediation***

31. The 3-year Pilot Scheme on Family Mediation was launched in May 2000 with the funding and resource support of the Judiciary, Hong Kong SAR Government. A Mediation Coordinator's Office was set up in the Wanchai Tower. The Office is manned by a Mediation Coordinator, a clerical officer and his/her assistant.

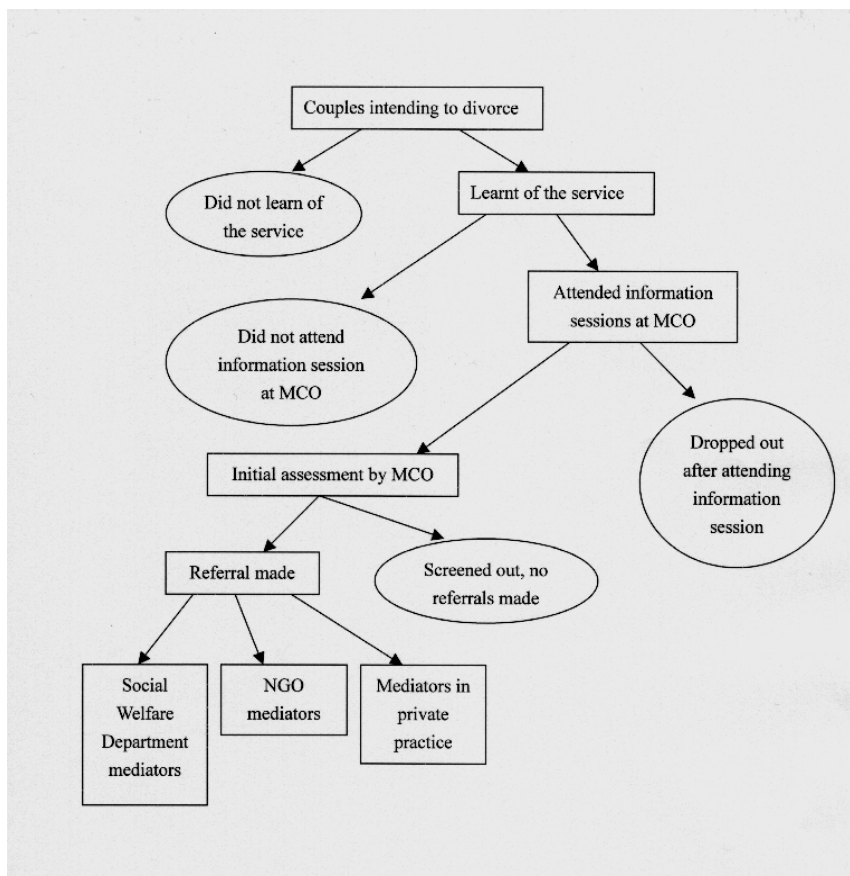
### ***The Service Delivery Process***

32. The service delivery process is as described in the following and presented in Figure 1.
- a. Couples interested in the service may approach the Office to make appointments for an information session conducted by the Mediation Coordinator.
  - b. After the information session, the Mediation Coordinator conducts an initial assessment of the suitability of cases for mediation having regard to the nature of the disputes.
  - c. For suitable cases, the Mediation Coordinator refers the parties seeking mediation to a list of accredited mediators from which the parties may choose their mediator.
  - d. Upon receiving referral from the Mediation Coordinator, the mediator contacts the parties and convenes interviews with them.



- e. Mediators normally conduct interviews in their own offices. Some mediators, like those from the Social Welfare Department, render their service at branch offices of their agencies in the vicinity of the service-users.
- f. Upon the completion of the service, with or without agreement reached, mediators report the outcomes to the Mediation Coordinator's Office. The cases are then closed.

Figure 1. Access to Family Mediation Service

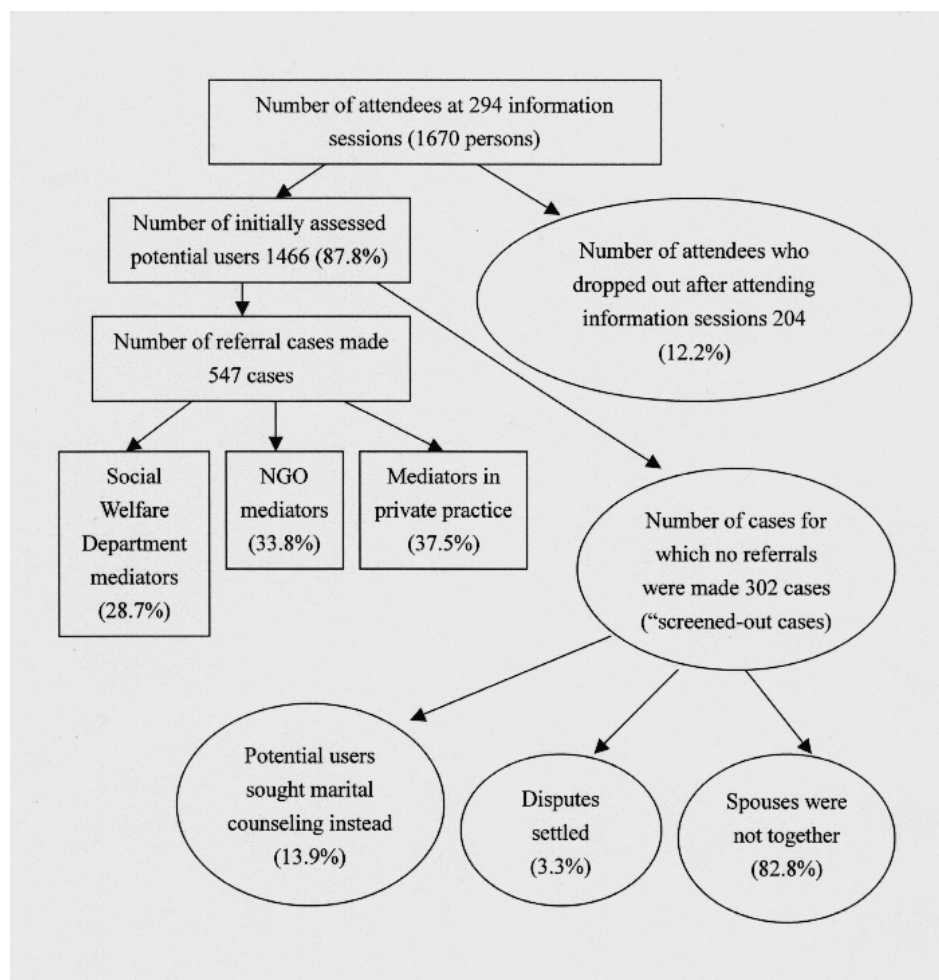


***Number of potential users attending the information sessions***

- 33. As many as 1,670 individuals attended 294 information sessions held at the MCO office between May 2, 2000 and November 13, 2001. The attendance rate is a reasonably good one, considering the facts that disputing couples could also turn to mediation services outside the Pilot Scheme and that there were many cases which simply did not require mediation.

34. As can be seen from Figure 2, the majority (87.8%) of these attendees stayed on for an initial assessment of their suitability for family mediation. One out of seven of them (12.2%) ‘dropped out’ after attending the information sessions.

Figure 2 Total Number of Potential Users and Users of Family Mediation Service, May 2, 2000–November 13, 2001



***Number of Potential Users Who Undertook Initial Assessment***

35. Referrals were made for roughly three-quarters of those who undertook the initial assessment. Of those cases for which no referrals were made, many (82.8%) concerned men and women whose spouses were not with them when they were assessed for the service. There were also those (3.3%) who no longer needed the service (‘disputed settled’) and those who turned instead to marital counseling (13.9%). There were few *real* screened-out cases.

### ***Choice of Mediators by Institutions and By Professional Backgrounds***

36. MCO records show that, at the time of the study, there were all together 57 family mediators on MCO's register (Actual number of family mediators should be 55 because 2 family mediators served as employees of a NGO and mediators in private practice at the same time, hence had been doubly counted). Of these 57 mediators, 2 were from the Social Welfare Department (SWD), 29 from non-governmental organizations (NGOs), and 26 in private practice.
37. Of the 55 mediators, more than half (34) had a background in social work. One-third (20) had a background in law. One mediator had a background in counseling. Service-users who picked social workers, particularly social workers from SWD, were characteristically 'working class' people with modest education and low income.
38. MCO data show that 'free service' was, for most users (82.1% for male party; 83.8% for female party), the most frequently cited reason for choosing the service. Data collected through interviews with service users suggest that the location of mediators' office was also an important consideration.

### ***Number of Cases Referred to Mediators from Different Institutions***

39. During the period, 547 cases were referred out from MCO to mediators. The mediators at SWD received 157 (28.7%) cases, NGO mediators, 185 (33.8%) cases, mediators in private practice, 205 (37.5%) cases. Per-mediator share by sector was 78.5 cases, 6.4 cases, and 7.9 cases respectively. It is apparent that, while *overall* distribution of cases by sector was roughly even, i.e. each sector had a one-third share of the total number of cases, distribution by sector in terms of per-mediator share was rather lopsided. The two full-time SWD mediators had a disproportionate share of cases referred from MCO.

### ***Time Taken from Application to Referral of the Case to Mediator***

40. MCO data show that, in over half (male service users, 59.6%; female service users, 59.6%) of the cases, it took service users 8 to 30 days from the time they put in an application to the time they were assessed for their suitability for the service (Tables 26-27, Appendix B).
41. After the initial assessment, in the majority of the cases (male service users, 87.0%; female service users, 79.9%), service users were referred to mediators within 7 days (Table 28-29, Appendix B).
42. In over half of the cases (52.7%), the entire process, from putting in an application to completing mediation, took less than 90 days. In a minority (11.0%) of the cases, the entire process took more than 180 days (Table 31, Appendix B).

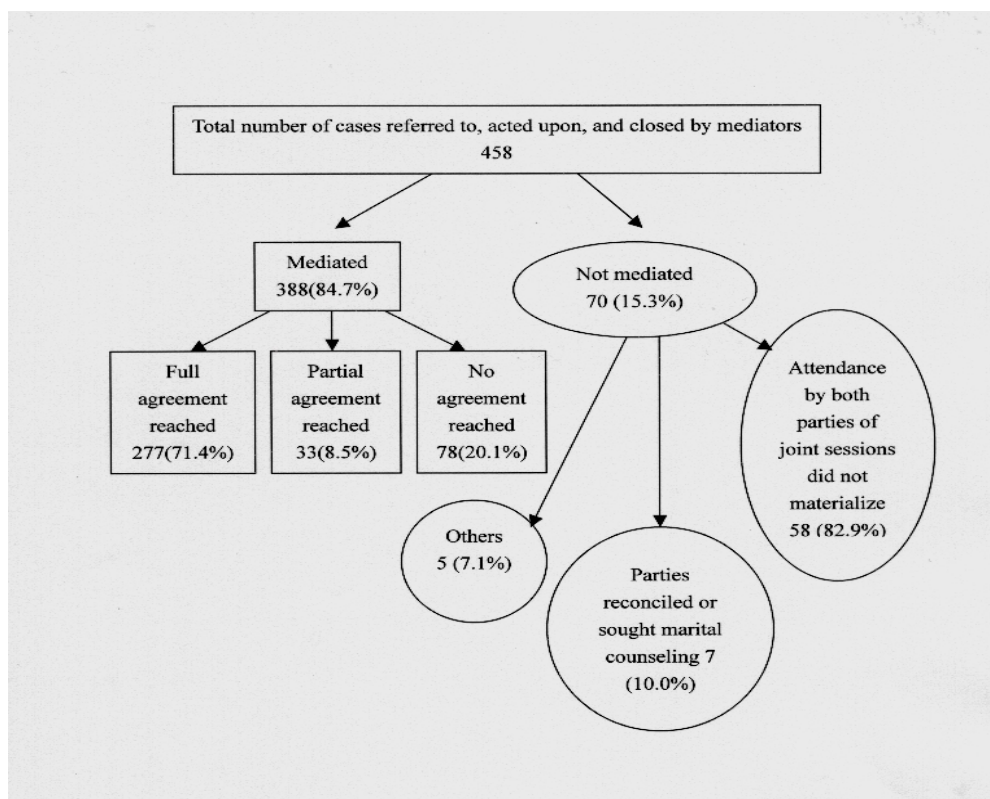
43. MCO data show that only around 10% of all mediation cases had never had a joint session. There were two possible reasons for this. First, these cases might have been terminated at the intake stage, i.e., at least one party might have considered that mediation was not helpful or not necessary for resolving their disputes and therefore did not proceed further with mediation. Second, there were a very small number of couples who rather preferred mediators to settle their disputes through individual sessions. In the majority of the cases, service users met their mediators in a combination of one-to-one sessions and joint sessions together with their spouses.

**Total number of cases referred to, acted upon, and closed by mediators**

44. During the period, mediators acted on and closed 458 cases referred from Mediation Coordinator’s Office (Figure 3).

45. The large majority of these cases were *mediated*. Of all these *mediated* cases eighty per cent (79.9%) had resulted in agreements. Seven out of ten (71.4%) duly mediated cases had full, and one in ten (8.5%) had partial agreements reached between the disputing parties. About one-fifth (20.1%) of the mediated cases did not eventuate in any agreement.

Figure 3 Total Number of Referred and Mediated Cases between 2.5.2000-13.11.2001



46. One in seven (15.3%) cases referred to and acted upon by mediators were *non-mediated*. The main reasons for non-mediation were (a) one or both parties did not turn up at the mediators' offices and (b) joint sessions, for one reason or the other, fell through. A small number of non-mediated cases (10.0%) involved parties who reconciled or sought marital counseling.

***Agreements Completed by Mediators from Different Institutional Backgrounds***

47. During the period, mediators 'completed', i.e. closed the files of, around 80% of the cases referred to them. SWD mediators, NGO mediators, and private-practice mediators 'completed' respectively 82.2%, 85.9% and 82.9% of the cases referred (See Table 2).

Not all 'completed' cases were 'mediated'. Private-practice mediators rendered service to, i.e. 'mediated', 75.6% of the cases referred to them. NGO mediators 'mediated' 71.9% of the cases, and SWD mediators 'mediated' 63.7% of the cases referred to them.

*Table 2 Completed Cases, in Percentage*

	Non-mediated Cases	Mediated Cases	Total No. of Completed Cases	Total No. of Cases Referred by MCO since 2 May 2000
SWD Mediators	18.5% (29)	63.7% (100)	82.2% (129)	100.0% (157)
NGO Mediators	14.1% (26)	71.9% (133)	85.9% (159)	100.0% (185)
Mediators in Private Practice	7.3% (15)	75.6% (155)	82.9% (170)	100.0% (205)
Total	12.8% (70)	70.9% (388)	83.7% (458)	100.0% (547)

Source: MCO (figures covered the period between 2<sup>nd</sup> May 2000 and 13<sup>th</sup> November 2001)

*Table 3 Agreement Rates, in Percentage*

	Full Agreement (a)	Partial Agreement (b)	Agreement (a + b) = (c)	No Agreement (d)	Total (c + d)
SWD Mediators	81.0% (81)	4.0% (4)	85.0% (85)	15.0% (15)	100.0% (100)
NGO Mediators	72.2% (96)	6.8% (9)	78.9% (105)	21.0% (28)	100.0% (133)
Mediators in Private Practice	64.5% (100)	12.9% (20)	77.4% (120)	22.6% (35)	100.0% (155)
Total	71.4% (277)	8.5% (33)	79.9% (310)	20.1% (78)	100.0% (388)

Source: MCO (figures covered the period between 2<sup>nd</sup> May 2000 and 13<sup>th</sup> November 2001)

48. By-sector *agreement rates*, i.e. percentage of mediated cases that reached full or partial agreement, show that SWD mediators had the highest agreement rate (85.0%), followed by NGO mediators (78.9%) and then by mediators in private practice (77.4%). As shown in Table 3, SWD mediators had the highest (81.0%) and mediators in private practice the lowest (64.5%) *full-agreement rate*.

***Time Needed to Reach or Attempt to Reach an Agreement***

49. It took, on the average, 10.18 hours to reach a full, 14.35 hours to reach a partial, and 6.31 hours to reach no agreement (See table 4). Partial-agreement cases were more ‘time-consuming’, reflecting, perhaps, that these involved difficult and hard-to-reconcile issues. No-agreement cases had mainly to do with ‘parties unable to solve any issues’, ‘no joint mediation session conducted’, and ‘only 1 party attended appointment with mediators’. ‘Parties unable to solve any issues’ was the most often cited reason for no agreement.
50. On average, as can be seen from Table 4, it took SWD mediators 6.78 hours, NGO mediators 10.02 hours, and mediators in private practice 11.45 hours to conclude a mediated case.

*Table 4 Average Time Spent on Cases Resulting in Different Types of Agreement, in hours*

	Full Agreement	Partial Agreement	No Agreement	Average
SWD Mediators	7.2 hrs	8.3 hrs	4.1 hrs	6.78 hrs
NGO Mediators	11.0 hrs	13.6 hrs	5.5 hrs	10.02 hrs
Mediators in Private Practice	11.8 hrs	15.9 hrs	7.9 hrs	11.45 hrs
Average	10.18 hrs	14.35 hrs	6.31 hrs	

Source: MCO (figures covered the period between 2<sup>nd</sup> May 2000 and 13<sup>th</sup> November 2001)

***Agreement Rates for Different Items of Dispute Reached Through Mediation***

51. Table 5 shows the percentage of cases with agreements reached for different disputed items. Child custody and access were relatively easy to settle. Agreement rates on these two items of disputes were over 85% for both female and male parties. Couples also did not have too much difficulty in reaching agreement over financial support for their children; the agreement rate for these was over 80%. Financial support for spouse, accommodation/property issues and financial matters were relatively more difficult to resolve through mediation.

*Table 5 Agreement Reached on Disputed Items, by %*

Disputed Items	According to Female Parties	According to Male Parties
Child custody	88.4%	86.0%
Child access	87.3%	88.4%
Financial support for spouse	78.5%	75.2%
Financial support for children	82.3%	81.0%
Accommodation/ property	77.6%	76.7%
Financial matters	58.8%	79.2%

Source: MCO Records (cases completed by November 2001)

## **Finding IV: Users' Satisfaction**

### ***Quantitative Data from the Service Users' Satisfaction Survey***

52. Users were, on the whole, positive about the service. 77.2% of the 238 respondents in the survey were 'very much satisfied' or 'satisfied' with the mediation service they received. 11.0% of the respondents felt 'neither satisfied nor dissatisfied'. 11.9% of the respondents were 'dissatisfied' or 'very much dissatisfied' with the service (Table 20 in Appendix C).
53. 231 respondents gave answers to the question asking them if they were satisfied with the settlements on issues of dispute through mediation service. Of these respondents, 63.3% felt 'very much satisfied' or 'satisfied'. 11.2% were 'neither satisfied nor dissatisfied' and 24.3% felt 'dissatisfied' or 'very dissatisfied' (Table 16 in Appendix C).
54. Asked if they would recommend the service to their friends and relatives, 78.5% of the respondents replied 'yes, certainly'. 9.3% were 'not sure' and only 12.2% said 'no, certainly not' (Table 21 in Appendix C).
55. On the question of whether they agreed they were able to discuss disputed issues with their spouse through mediation service in a peaceful manner during the mediation session, 66.7% of the respondents said they 'very much agreed' or 'agreed'. 11.0% gave 'no comments' and 22.3% 'disagreed' or 'very much disagreed' (Table 18 in Appendix C).
56. On the question of whether they agreed they were able to discuss disputed issues with their spouse through mediation service in a sensible and reasonable manner during the mediation session, 61.1% of the respondents said they 'very much agreed' or 'agreed'. 12.4% passed 'no comments' and 26.6% 'disagreed' or 'very much disagreed' (Table 19 in Appendix C).

57. The users' satisfaction survey also asked users of mediation service about their experience with the mediators helping them. Their feedback was on the whole very positive.
- a. 84.3% of the respondents replied 'no' when they were asked if the mediators had taken side in the course of mediation. 96.6% answered 'no' when asked if their mediators had ever made decisions for them (Tables 14 and 15 in Appendix C).
  - b. About a quarter (28.9%) of the respondents reported, however, that their mediators had given them legal advice on the mediation items. Another quarter (26.7%) reported that their mediators had given them psychological counseling in the course of mediation (Tables 12 and 13 in Appendix C).
  - c. It was apparent, however, that they did not reject such service. In fact, they also said they actually needed such help to carry on with mediation. The majority of them also did not think mediators who offered legal advice or psychological supports were not neutral.
  - d. Feedback from users suggests that family mediators were, on the whole, impartial and able to respect the right of the users to make decisions themselves on issues of disputes.

#### ***Qualitative Data Collected from In-depth Interviews***

58. Results from in-depth interviews were as assuring, as reflected in the following excerpts from the interview files:
- a. *Saved time and money.* The service was efficiently arranged and, most importantly, it was free. Moreover, when agreements were reached, both sides could save time and money, as there was no litigation. Many service users appreciated the fact that the service was very accessible. Some mediators literally travelled to where the users were; they met users at branch offices of their agencies.

*I'm not sure if the service provided by lawyers is different from theirs [mediators], but I know that it is very expensive to hire a lawyer. It [mediation service] was free.*

*We came to terms with each other in less than a week's time.*

*It saves time and money and should be made available to whoever is prepared to divorce.*

*I wished to pick a mediator who was a lawyer so we might consult him/her for legal advice. My ex-husband did not go for it. He picked a social worker at the district close to where he worked. He said that he could attend the interviews more conveniently.*



*I wanted a mediator who could interview me at the new town I live. My request was entertained by a social worker of the SWD who could meet me there.*

- b. Provided educational experience for some divorcees. Family mediation informed and educated those who had little idea of how to proceed when they were to divorce. It was, in this sense, ‘educational’.

*I had no idea what to do to divorce. The mediator helped us sort out the things that we had to do and matters that we needed to consider.*

*At first, I didn't even know that when my son reached 18, I could stop financially supporting him. I learnt this from the mediator.*

- c. Commended for high professional standard of service. The mediators were often described by users as very professional, skillful in handling their differences and promoting an environment conducive to settlement and agreement.

*The mediator was very professional. She was knowledgeable about matters related to divorce and she knew what to do when we got emotional.*

*I think the mediator was effective. She could convince him [male party]. I didn't know what she [the mediator] had told him. But she did have the skills.*

*I am very satisfied with the performance of the mediator. She was responsible and skillful. She also maintained good neutrality in the process.*

- d. Reduced tension with agreement reached. Once agreement was reached and as uncertainties were dispelled, the tension between the couple eased off. Consequently, both parties were more ready to relate to each other. This helped co-parenting.

*Mediation could help dissipate adverse feelings.*

*At least, now we are still friends. I meet him regularly and talk to him [ex-husband] as friend.*

*We are now able to relate to each other in a much more positive way. And we sometimes go out with the daughter during the visitations. This would not have come about had there not been the mediation service.*

- e. *Facilitated dialogues on matters related to divorce.* Some users pointed out that mediators could help them express their views and positions more freely and peacefully in the presence of their spouses, something which they could not do without the mediators.

*We had worked on our disputes a lot of times before. However, we just couldn't control ourselves. We were so emotional that we weren't able to talk peacefully. Things were much better in the presence of a mediator. We worked out a solution with her help.*

*The most helpful part of the service was the drafting of the written agreement. As the judge said: we had divorced in a civilized way. We didn't need to argue in the court. After all we were husband and wife.*

### ***Summary on Users' Views on Family Mediation***

#### Users' satisfaction

59. The picture configured by findings from the survey was that an impressive majority of the service users were satisfied with the service. Some respondents expressed satisfaction with the service notwithstanding the fact that they were not satisfied with its outcome. Of those who had reservation with the service, many still said they would recommend the service to other would-be users. They appreciated its value even though it had not gone all their ways. Many attributed the failure to reach an agreement to themselves rather than to the mediators.
60. Feedback from in-depth interviews was overwhelmingly positive. It might simply be that those who were satisfied with the service were more willing to accept our invitation for an interview. The advantages of family mediation in terms of saving time and money, reducing bitterness, promoting co-parenting and communication came across very strongly. In the survey, about 70% of the respondents endorsed the view that family mediation promoted peaceful and reasonable discussion over their disputed issues.

#### The views of some of the service users' children

61. The response of users towards requests to interview their children varied. Many expressed that it was not proper to involve their children, as the latter should not be bothered by the business of their parents. Culturally, this makes sense, as Chinese parents tend to be protective towards their children. They may want to insulate children from the repercussions of divorce. Nevertheless, some parents were willing to allow these interviews to take place. Some even went so far as to say that it would be good to involve their children in the mediation process for its outcome would have implications for their welfare. Some parents expressed the view that they would feel supported and understood, if their children were also present in the session.

62. Children's attitudes towards the service were mostly positive, though they were seldom directly involved in the process. Most of them did observe that their parents were relating more peacefully with one another after agreements were reached. This helped allay their worries of being torn between them. This view was also echoed by some service users who opined that the constructive experience in relating to each other in mediation and the eventual settlement did contribute to better co-parenting.
63. Despite their reservation over directly involving children in the mediation process, many parents did support the idea that children should be informed of the changes and agreements their parents had made. Was just keeping the children informed good enough? How and under what circumstances should the children's voices be heard on arrangements affecting their welfare? There is here much food for thought for the mediators. Below are some examples of the feelings and views of some of the children interviewed.

*I was not invited to mediation but I was ready to participate if invited. I understood that my parents might not want us to be bothered by the divorce matter. Sometimes, I do not want to know too much as it can bother me... I have not shared the divorce of my parents with anyone.*

*I think I have a right to know, right?*

*I would like to participate in the mediation process when it was related to me. I also have an interest to know what it (mediation) is.*

#### The Issue of Neutrality

64. 15.7% of the respondents in the survey reckoned that their mediators had taken side during mediation. As neutrality was so crucial for mediation to be successful, the perception that it was not upheld could bias users' overall attitude toward the service. Inability to maintain neutrality is also a main complaint of the users when they perceived its violation in the in-depth interviews.

*It is reasonable to expect that a woman would help another woman. She [the mediator] might want to fight for her [his ex-wife].*

*She [the mediator] phoned me and asked me if I would agree to sell the flat. I was very angry as we had agreed not to sell the flat in the agreement. I thought I must have scolded her. She should not just persuade me. She should understand that I would not agree unless my husband could assure me that he could provide a good shelter for my son who would be staying with him after the flat was sold, which he could not.*

### *The Roles of the Mediators*

65. In the survey, 29.3% of the respondents were of the view that the mediators had provided legal advice on disputed items. As many as 26.3% of the respondents also reported that they had been given psychological or emotional counseling service. In mainstream mediation approaches, these activities are deemed not proper. We should, however, interpret these figures with care; information giving or clarification might have been perceived as legal advice, as might providing listening ears and emotional support when service users were getting emotional.
66. In the in-depth interviews, there were not that many complaints concerning mediators providing legal advice and counseling. On the contrary, some users would like mediators to be better equipped with legal knowledge so that users could be better informed of relevant legal issues and principles. Furthermore, some expected mediators to be more sensitive to their emotions rather than conducting the mediation process in a mechanical way. Where there were specific complaints, these usually had to do with the failure of the mediators, as perceived by the complainants, to maintain neutrality, attend to their needs, inform them of the time constraint, and promote compromise.

*The mediator was too cautious and reserved. She said she would not answer questions on legal opinion. She did not give any opinion, not even neutral ones.*

*She [the mediator] showed understanding of my painful experience and gave me the opportunity to ventilate. It was good.*

### *Fee Charging*

67. As at the end of 2001, out of the 180 cases which we have reviewed, only four cases had paid top-up fee. All other cases did not have to pay anything. This was well appreciated by the users. Nevertheless, when asked whether they were willing to pay, many said they were willing to afford part of the expenses. Many indicated that a sum of about \$1,000 for the whole package of service would be reasonable and affordable. However, the view was also expressed that those who could not afford it should not be deprived of the service; it should stay free.

*I could afford at most \$50 per hour and \$1,000 in total for the whole service.*

*It's meant for us poor people, people who couldn't afford a lawyer. Rich people just don't bother as they could hire lawyers to represent them. Therefore, the service should stay free - for the sake of the poor people.*

### The Icon for the Service

68. MCO statistics as at November 13, 2001 shows that, out of a total number of 302 cases with no referral made after initial assessment, 42 cases (13.9%) had to do with 'couples who chose marital counseling instead of family mediation'. This would appear to suggest that a good number of users might have come to the information session mistaking 'Family Mediation' (家事調解) to be a counseling service helping couples to resolve their problems and restore their marriage. In-depth interview data corroborate such a finding: quite a few interviewees confirmed that they had been misled by the icon 'Family Mediation', which did not accurately describe the nature of the service to laymen like themselves.

*The name of the service is family mediation. It gives me the impression that it is provided to couples to rescue their marriage.*

### Other Opinions, Dissatisfaction and Worries Expressed by Service Users

69. When mediation was advised by the judge during the ancillary relief proceedings, both parties, even if they were not sure what mediation could do for them, were inclined to follow the advice, as they feared that to do otherwise might jeopardize their interest in litigation.
70. Some users felt that there were pressures on them to settle with each other because they were running out of time, something which they had little idea of at the beginning of the mediation process.
71. One user expressed dissatisfaction with the service because of the insensitivity of the mediator to her concern. She insisted that her ex-husband had to move out of the flat first before she moved in. Her complaint was that the mediator failed to recognize her fear of possible sexual violence.
72. Many service users, though satisfied with the service and its outcome, worried about whether or not the other party - usually the male party - would adhere to the agreement of paying maintenance.
73. As the MCO in actual practice performs more of a coordinating rather than a screening role, it was not surprising to find cases which were unfit for the service but which nevertheless filtered through the system. From the MCO statistics, 15.3% of the cases referred to mediators did not receive mediation service. Of these non-mediated cases, about 10% were cases that had instead resorted to reconciliation or marital counseling (See figure 3 in page 14). This raises the issue of whether the screening and assessment should rest with the MCO or the mediators or both.

74. The interface between the mediation service and the legal service has to be improved for, while the former encourages compromise, the latter induces advocacy and confrontation. When service users were having the parallel services of both mediators and their legal representatives, they might be receiving conflicting messages from these two sources. This could interfere with and unsettle the mediation process.

### **Finding V: Views of Professionals Involved in the Pilot Scheme**

75. By ‘professionals’ participating in the Pilot Scheme, we mean *referrers* who referred cases to the Mediator’s Coordinator’s Office for mediation service and *family mediators* who had been providing mediation service to cases referred from MCO. Out of all the referrers and family mediators, a total of 14 referrers and 13 family mediators were invited for an individual in-depth interview to gauge their views on the service. These professionals were selected based on the following considerations: -
- a. that they were relatively more active as referrers/mediators;
  - b. that they held special positions in connection with family mediation organization and/or service;
  - c. that there would be a good mix of such professional backgrounds as legal, social work and counseling;
  - d. so that there would be a balanced mix of male and female professionals;
  - e. that there would be a good mix of mediators belonging to different organizational backgrounds, namely the Social Welfare Department, non-governmental organizations, and the private sector.

#### ***On the Pilot Scheme***

76. The impression came through that not many lawyers and potential service users were well informed about the service and the scheme, which would suggest the need for continued promotion and publicity to improve awareness and knowledge of the scheme.
77. The view was expressed that the Mediation Co-ordinator should be an experienced and openly recruited mediator so that he/she would not have conflict of interests arising from his/her organizational background.

### ***On Mediation Service***

78. Professionals all considered mediation an effective way of resolving disputes because it was less formal and less threatening. Service users would feel emotionally more secure than when they had to go through litigation. Concerning the kind of disputes that could best be settled by mediation, professionals considered mediation a much better way to settle cases involving child disputes, particularly those involving single child families. They regarded cases involving financial and property disputes difficult to resolve.
79. There was considerable sympathy for a compulsory service, reasons being that mediation helped speed up the legal proceedings relating to divorce and child custody issues, re-connect the divorcing parties to work on the welfare of children, and re-create the spousal communication which was so essential for co-parenting to continue after divorce. They left open issues like what should be made compulsory, who were required to attend mediation sessions and at what point they should attend mediation.
80. There was general support for fee charging, perhaps with users making contribution to part of the fee. There was the view that the current fee (\$600 per hour) was too low as compared with the market rate of professional service of a similar nature, for example, marital counseling.
81. Mediation, it was said, saved time and shortened the process by three to four months on the average. In addition, it speeded up legal proceedings and helped solve some if not all problems.
82. It was also opined that mediation was a much less costly service: One professional estimated that, *'where there was no argument, it could save the divorcing parties from around \$10,000 to \$15,000. Where there were disputes, it could save legal expenses ranging from a few thousand to several hundred thousand to even a few million dollars.'*

### ***Interface Between the Mediation Service and the Legal Service***

83. There were also views on how the mediation service and the legal service could best interface. Three possibilities of interface were identified:
  - a. *Mediation ahead of legal service, that is, couples wanting to divorce would receive mediation first before starting legal proceedings.* The principal advantage of this practice is that it reduces possible conflicts which may arise during the legal process. An experienced mediator mentioned that lawyers would usually advise their clients to use 'unreasonable behaviour' as a ground for divorce because if they won the case, the legal fees would be charged against the respondent. These could create a lot of conflict between the divorcing couples during the litigation proceedings. If the couples could come to terms peacefully before litigation, the subsequent divorce procedures would proceed more smoothly.

- b. *Mediation service running in parallel with the legal service.* This practice appears most economical because two services are running at the same time. However, there is the risk of one service interfering with the other, hence jeopardizing the dispute resolution process. Another mediator quoted one of her cases in which she had successfully helped a couple to reach an agreement on the amount of maintenance. When the female party informed her lawyer of the agreement, the lawyer told her that he could definitely help her fight for a much higher amount. The female party subsequently refused to sign the agreement.
  - c. *Mediation referred by court during the ancillary proceedings.*
84. Better cooperation between lawyers and mediators was deemed necessary in all three forms of interface. In general, professionals were inclined to the view that mediation should start as soon as possible. There was also the view that a serial approach could work out better in terms of reducing the interference of one service with the other.

## **Finding VI: Court Time Saved**

*Table 6 Number of Cases with Agreement Reached through mediation before End of November 2001*

Dispute Items (MCO Classification)	No. of Cases with Agreement Reached through Mediation
Child access	193
Child custody	190
Financial support for spouse or children	227
Accommodation/property/ financial matters	192

Source: MCO Records (cases completed by the end of November 2001)

85. Usually divorce cases with no disputed items will be settled at the first or the second call-over at the family court, each of which lasts for about 15 minutes. If the divorce applications involve disputed items requiring court hearings, the process will commence after the second call-over. According to an experienced Family Court judge, disputes over custody and access on average take three court sittings for a total of several days to hear and grant orders whereas disputes over maintenance and property vary, ranging from a few hours to several weeks, depending on the complexity of the disputes.
86. An estimate of the court time saved for the 408 mediation cases completed before the end of November, as shown in Table 6, can be arrived at basing on the average court sitting hours for disputes involving custody and access, and maintenance and property. The research team is examining court data with a view to computing a more accurate estimate of the court time saved by mediation and will report the findings in the next report.



87. While ‘court time saved’ gives some indication of the ‘efficiency’ of the service, one should not forget that ‘family mediation’ is not just about cutting cost and saving money. The overarching objective of the service, which one should never lose sight of, is that mediation provides a qualitatively different service option to litigation.

## **Conclusion**

### *Family Mediation: A Viable Option for Dispute Resolution*

88. From the data gathered, it can be seen that nearly three-quarters of the couples who had sought the service to settle their disputes under the pilot scheme were satisfied or very satisfied with the service they had received. Service users generally reported that they were able to discuss issues of disputes with their spouse in a peaceful and reasonable manner in the presence of a mediator. No less than eight out of ten respondents said they would recommend the service to their friends and relatives. Judging from these tentative findings, it is quite safe to say that the family mediation service provided under the pilot scheme has been well received by the service users.
89. 71.4% of the couples receiving family mediation service could reach a full agreement, and another 8.5% of them a partial agreement. On average, it took roughly about 10 hours for couples to reach a full agreement and about 14 hours to reach a partial agreement, which is considered to be rather economical in terms of time cost, whilst successful mediation further saves court time. In view of these merits, family mediation can be regarded as an efficient means of settling disputes between divorcing couples.
90. The high level of satisfaction among service users as well as the effectiveness and efficiency of the service strongly suggests that family mediation is a viable option for divorcing couples. Considering also the advantages of the service as reported in foreign and local research, the research team is inclined to the view that the government should continue funding the scheme beyond its first three years of operation. Having said this, the tentative findings of this study do signal a number of issues that warrant further thought and deliberation.

### *Form of Service: Mandatory or Voluntary*

91. Family mediation is a process whereby a neutral family mediator helps couples reach agreements in resolving disputes arising from their divorce or plan to divorce. In Hong Kong, the service has a history of over 10 years. Prior to the introduction of the Pilot Scheme, it mainly existed as a private and voluntary form of service chosen by the clients.

92. In the overseas, an alternate form of mediation service is one established by law on a mandatory or court-ordered basis to resolve family dispute in a specific area. In child dispute, for instance, 39 states in the US have laws by the mid-1990s that allow the court to order parents to participate in mediation before bringing a child dispute to court.<sup>17</sup>
93. Mediation service under the Pilot Scheme is rendered on a voluntary basis. The high level of satisfaction among those who had used the service suggests that a voluntary form of service is welcomed and accepted by the service users in Hong Kong. However, if the service remains entirely voluntary, those who are eligible for legal aid services may not feel the incentives to choose mediation. If mediation service is shown to be able to cut down on the overall legal aid expenditure, there seems to be a need to reconsider whether it should remain a wholly voluntary service.
94. The approach adopted by England and Wales can be a reference for Hong Kong. The Family Law Act 1996<sup>18</sup> provides that a person shall not be granted representation for the purposes of proceedings relating to family matters unless he has attended a meeting with a mediator to determine whether mediation appears a suitable option. If mediation appears suitable, the mediator should help the person applying for legal representation to decide whether or not to apply for mediation instead. The research team considers that the Director of Legal Aid could be given the power to require cases which are considered suitable to attempt mediation before they are granted representation. The England and Wales approach looks applicable to Hong Kong because it makes sure divorcing couples can make informed choice as to how their divorce-related disputes can be resolved and makes sure mediation service is made available to them before they resort to legal services.

*Service Icon: Family Mediation or Divorce Mediation*

95. There is considerable concern over the name of the service. From interviews of key informants, it came through that there were rather opposite views. Some were happy with its current name while others preferred the name 'divorce mediation' (離婚爭議事項調解服務) instead.
96. The choice of name for the service is more than a linguistic issue because perception of the name leads to service expectations. In the course of data collection, it was found that quite a number of service users found its current Chinese name confusing. Some mistook it for family counseling and others thought it had to do with marriage reconciliation. Those who thought so found themselves in the wrong place, and therefore wasting time, after learning that it was for divorce mediation. There were also service users, though relatively few in number, who approached the service with the intention to make up the relationship, but ended up in divorce when the option was made available to their spouses.

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<sup>17</sup> Saposnek, D.T. (1998). *Mediating Child Custody Disputes*. Revised Edition. San Francisco : Jossey-Bass Publishers. P.14.

<sup>18</sup> See Section 29 of the *Family Law Act 1996*.

97. This, then, appears to call for further and wider consultation for a better name. The research team is inclined to believe that the icon 'divorce mediation' is probably one which could avoid the possible misinterpretations by the public of the nature of the service and therefore minimize the chance of attracting wrong applicants. It could also give the service a better focus and, as will be discussed later, render the role of the Mediation Coordinator clearer and more specific.

*Screening of Cases by MCO: Inclusive or Exclusive*

98. Current service delivery begins when potential couples self approach, or are referred, to the Mediation Coordinator. The MCO soon contacts by phone inviting the applicants to come for an information session, which consists of a talk delivered by the Mediation Coordinator on the nature, objectives and contents of the mediation service, which is followed by a video show. After the information session, the MCO will interview the applicants, either singly or jointly, to assess their suitability for mediation service. Suitable applicants will then be given a list of mediators and asked to choose one from whom they would like to receive mediation service. After the applicants have made their choice, they would then be referred to the mediators, usually in less than a week.
99. There is room to ponder on the screening role of the MCO. MCO statistics shows that the majority of the 302 cases screened out by MCO between the period 2.5.2000 and 13.11.2001 were cases in which one party either showed no response to contacts initiated by the MCO, or failed to turn up for the information session or the assessment interview. 13.9% of the cases (42 out of 302) were screened out because the applicants chose marital counseling instead of family mediation. Only two cases were found to be unsuitable for the service because one party was of low IQ and another too fearful of the other party. It would appear that the MCO had been rather inclusive in the initial assessment.
100. The research team reckons that an inclusive approach to initial assessment could admit more applicants into the service delivery system. However, an inclusive approach is not without its drawbacks. Generally speaking, the more inclusive is the screening by the MCO, the bigger is the number of unsuitable applicants processed through the system. The responsibility of assessing the suitability of these applicants has been passed over to mediators who will have to conduct or perhaps repeat the assessment process. If mediators are to concentrate on providing service, there seems to be a need to reconsider the role of the MCO in the service delivery system.

*Service Accessibility: a Stationary vs a Mobile Service*

101. An important issue identified during the course of data collection is that of service accessibility, in terms of physical distance and the service available hours. Generally speaking, service users tended to choose mediators who were close to where they live or work. For those who had to work, they would also like to have mediators who could meet them outside their work hours, usually in the evenings.
102. Mediators were aware that accessibility of service was an important factor affecting a client's choice of mediators. Therefore, though nearly all service providers started off with a stationary mode of service, i.e. one that is agency-based, some in the course of time began to make themselves mobile i.e., traveled to where they could provide their service in the vicinity of the family or workplace of the clients. They usually did this at the branch offices of the their agencies. Findings from the study suggests that a mobile form of service, i.e. one that was delivered at a locale close to the client's family or workplace, appeared to be particularly popular among users from the working class background.
103. Service users from the middle class background tended, on the other hand, to choose mediators with a legal background. They also did not seem to mind traveling longer distance to receive the service in the mediator's office. These findings appear to suggest that there is a differentiated service catering to a differentiated clientele and user population.

*Service Model: Unity vs Plurality*

104. Under the pilot scheme, family mediation service is provided by the government, NGOs, and private practitioners. Based on the data collected so far, it appears that different service providers are attracting different service users. Service users coming from a working class background tended to choose mediation service provided by a government department probably because many of them had prior experiences with the welfare bureaucracy. On the other hand, service users who were professionals tended to turn to mediators with a legal background.
105. Service statistics kept by the MCO showed that the market is more or less equally divided among agencies of different auspices, and also among mediators of different professional backgrounds. The research team is inclined to the view that the current service model, one which is basically a pluralistic one, has many advantages. A model in which mediation service is provided entirely by private mediators is unlikely to meet the needs of service users in the lower socioeconomic stratum. A centralised model in which mediation service is entirely provided by the government, on the other hand, is not likely to appeal to service users of professional backgrounds. A pluralistic model, with its diversity in terms of the auspices of the services and professional backgrounds of the mediators, is more likely to meet the needs of a differentiated clientele and more preferable to a unitary model that provides users with few or no choices.

*Interface with legal aid service: a Serial vs a Parallel Service*

106. An important issue to be addressed is how mediation service should interface with the legal aid service. As revealed in the course of this study, a couple could contemplate mediation at three points of time after they decide to end their marriage. First, they could attempt mediation before they actually started the divorce proceeding. Secondly, they could try mediation after they have filed an application/petition for divorce, alongside the legal aid service they receive. Thirdly, they could do so during the ancillary proceedings at the request of the court. In the light of the benefits mediation may bring to a family, the research team considers that it is beneficial to leave it as an option to the couple throughout the entire divorce and ancillary proceedings, whether or not a couple choose to receive mediation to resolve their dispute at an earlier stage.
107. However, a number of problems arise in the second scenario, where mediation and legal aid services run parallel to each other. It has been brought to the attention of the research team that there was much ‘crosstalk’ between the two services. There were complaints by mediators that agreements worked out between couples were sabotaged by the lawyers who in the ‘best’ benefit of their clients advised them to drop the agreements and seek legal redress instead. Besides, legal aid lawyers considered that a parallel mode of service would not significantly reduce their work because, bound by a fixed schedule of court hearing, they could not simply wait until a couple reached a mediated agreement. It seems, therefore, that if mediation were run concurrently with the legal aid service, the legal aid costs would not be significantly reduced.
108. In the benefit of the couple, the research team considers that a serial mode of service is perhaps preferable to a parallel mode. By serial mode, we mean that couples are required to first attempt mediation. If they reach a mediated agreement, they can proceed to solicit legal service to prepare for them a consent summons, if they so choose. Should mediation be unsuitable or fail, they could then seek legal redress through legal aid. Based on the data gathered so far, there are reasons to believe that a serial mode of service will likely minimize the ‘crosstalk’ between the work of a mediator and that of the lawyers. It is also expected that it will lead to a reduction in legal aid costs, if more couples settle their disputes through mediation.

*Payment of service: Free vs Fee-charging*

109. Cost of service has been found to be an important factor affecting user’s choice of mediators. For most service users, especially those of lower working class background, they tended to choose mediators whose services were completely free. Though the range of their choices of mediators would become much wider if they were ready to pay extra ‘top up’ money, they would not usually do so as long as free mediators are available.

110. An important advantage of a free service is that it can attract more service users. This is particularly important in the beginning stage of service operation. Its biggest drawback, however, is that it cultivates no commitment on the part of the service users. Since service users do not have to bear any financial cost for the service, they can easily abort it without any financial loss incurred.
111. Actually, the majority of service users interviewed by the research team indicated that they were ready to pay at least part of the service costs, ranging from 'a few hundred dollars' to 'as long as it was lower than that charged by the lawyers'. Service users chose free mediators obviously out of the 'if the government is ready to pay all, why bother to afford it out of my own pocket' mentality. In the light of these findings, it seems worthwhile to consider introducing a fee-charging mechanism into the service, bearing in mind that free service should always be made available to those unable to pay.

### **Some Tentative Recommendations**

112. Bearing in mind that this is an interim report and that data collection is still in process, the research team puts forward, tentatively, the following recommendations:
  - a. To consider the continued funding of the scheme on family mediation service and funding it on a long-term basis;
  - b. To require applicants for legal aid service to attend information sessions at the MCO;
  - h. To consider changing the name of the service to make sure that there is no misunderstanding of the nature of the service;
  - i. To re-examine the role of the MCO, specifically over the approach that should be taken by the office in screening cases.
  - j. To maintain the current pluralistic model of service. This model caters to the diverse needs of service users and reflects the diversified nature of the existing service providers. It is more preferable to a unitary model of service, one dominated by just one type of service providers.
  - k. To maintain mediation as an option for couples throughout the entire divorce and ancillary proceedings, whether or not they choose to receive it at an earlier stage.
  - l. For legal aid clients, a serial mode of service whereby mediation precedes legal service is preferred to both services running concurrently.
  - h. Should family mediation be offered on a long-term basis, a fee-charging mechanism could be introduced for users able to afford the service.

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**Main Findings on Public Perception of the  
Pilot Scheme on Family Mediation in Hong Kong**

Table 1: Basic Facts on the Two Surveys

	First Survey	Second Survey
Date of Survey	7.9.2000 – 9.9.2000	14.1.2002-17.1.2002
Number of Respondents	828	915
Response Rate	45.5%	51.23%
Range of Sample Errors	plus or minus 3.4%	plus or minus 3.3%

Table 2: Sex of Respondents

	First Survey		Second Survey	
	<u>N</u> *	<u>%</u>	<u>N</u>	<u>%</u>
Male	364	44.0	409	44.7
Female	464	56.0	506	55.3
Total	828	100.0	915	100.0

Note\*: 'N' stands for number of persons; same for the rest of tables.

Table 3: Age of Respondents

	First Survey		Second Survey	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
18-29	266	32.1	234	25.6
30-39	227	27.4	253	27.7
40-49	165	19.9	216	23.6
50-59	75	9.1	121	13.2
60-69	43	5.2	49	5.4
70 or above	36	4.3	30	3.3
No answer	16	1.9	12	1.3
Total	828	100.0	915	100.0



Table 4: Marital Status of Respondents

	First Survey		Second Survey	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Never Married	284	34.3	290	31.7
Married	504	60.9	577	63.1
Divorced	24	2.9	33	3.6
Others	4	0.5	7	0.8
No Answer	12	1.4	8	0.9
Total	828	100.0	915	100.0

Table 5: Do Respondents Have Children?

	First Survey		Second Survey	
	<u>N</u>	<u>Valid %</u>	<u>N</u>	<u>Valid %</u>
No	91	17.1	85	13.8
Yes	442	82.9	532	86.2
N.A.*/Refused to answer	295	-	298	-
Total	828	100.0	915	100.0

Note \*: N.A. includes respondents who are never married

Table 6: Monthly Salary of Respondents

	First Survey		Second Survey	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Below \$4,000	62	7.5	8	0.9
\$4,000 – below \$7,000	46	5.6	39	4.3
\$7,000 – below \$10,000	79	9.5	103	11.3
\$10,000 – below \$14,000	92	11.1	114	12.5
\$14,000 – below \$17,000	48	5.8	42	4.6
\$17,000 – below \$20,000	30	3.6	29	3.2
\$20,000 – below \$25,000	52	6.3	49	5.4
\$25,000 – below \$40,000	43	5.2	66	7.2
\$40,000 or above	27	3.3	24	2.6
Other*	349	42.1	441	48.2
Total	828	100.0	915	100.0

Note \*: Other includes no income, irregular income, and refusal to answer

Table 7: Education Background of Respondents

	First Survey		Second Survey	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Below Primary	93	11.2	37	4.0
Primary	129	15.6	103	11.3
Secondary	416	50.2	555	60.7
Tertiary or above	177	21.4	212	23.2
No Answer	13	1.6	8	0.9
Total	828	100.0	915	100.0

Table 8: Do Respondents Know the Pilot Scheme

	First Survey		Second Survey	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Yes	207	25.0	193	21.1
No	620	75.0	722	78.9
Total	827*	100.0	915	100.0

Note \*: One respondent in the first survey refused to answer this question.

Table 9: Where Do Respondents Learn of the Pilot Scheme\*

	First Survey		Second Survey	
	<u>N*</u>	<u>%**</u>	<u>N*</u>	<u>%**</u>
TV/Radio	152	73.0	135	69.0
Newspaper/Magazine	79	38.0	64	33.0
Social Service Agencies	19	9.0	9	4.0
Legal Professionals	2	0.5	2	1.0
Friends/Relatives	13	6.0	19	9.0
Colleagues	2	0.5	2	1.0
Other	2	0.5	5	2.0

Note \*: Respondents can check more than one item if they learn of the Pilot Scheme from different sources

\*\* : The percentage is computed from dividing the number of respondents who had heard of the Pilot Scheme from a particular source by the total number of respondents who reported to know the Pilot Scheme.

Table 10: Does Family Mediation Save Time Compared with Litigation?

	First Survey		Second Survey	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Yes, it does	563	68.0	688	75.2
Not sure	59	7.1	94	10.3
No, it doesn't	103	12.4	29	3.2
Don't know/No Answer	103	12.4	104	11.3
Total	828	100.0	915	100.0

Table 11: Does Family Mediation Reduce Financial Cost Compared with Litigation?

	First Survey		Second Survey	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Yes, it does	612	73.9	742	81.1
Not sure	79	9.5	62	6.8
No, it doesn't	74	8.9	36	3.9
Don't know/No Answer	63	7.6	75	8.2
Total	828	100.0	915	100.0

Table 12: Does Family Mediation Cause Less Harm to Family Relationships Compared with Litigation?

	First Survey		Second Survey	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Yes, it does	148	17.9	98	10.7
Not sure	160	19.3	162	17.7
No, it doesn't	444	53.6	564	61.6
Don't know/No Answer	76	9.2	91	10.0
Total	828	100.0	915	100.0

Table 13: Can Divorcing Parties Have More Participation in Family Mediation?

	First Survey		Second Survey	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Yes, they can	590	71.3	735	80.3
Not sure	96	11.6	75	8.2
No, they can't	77	9.3	482	5.2
Don't know/No Answer	65	7.9	59	6.2
Total	828	100.0	915	100.0

Table 14: Are Divorcing Couples More Likely to Comply with Agreement Reached by Family Mediation?

	First Survey		Second Survey	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Yes, they are	396	47.8	490	53.6
Not sure	207	25.0	231	25.2
No, they aren't	139	16.8	88	9.6
Don't know/No Answer	86	10.4	106	11.6
Total	828	100.0	915	100.0

Table 15: Can Family Mediation Enable the Parties to Have Better Communication?

	First Survey		Second Survey	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Yes, they can	518	62.6	629	68.7
Not sure	123	14.9	144	15.7
No, they can't	134	16.2	84	9.2
Don't know/No Answer	53	6.4	58	6.3
Total	828	100.0	915	100.0

Table 16: Can Family Mediation Help Parties Cooperate Better in Parental Roles?

	First Survey		Second Survey	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Yes, they can	521	62.9	635	69.4
Not sure	128	15.5	142	15.5
No, they can't	108	13.0	69	7.5
Don't know/No Answer	71	8.6	69	7.5
Total	828	100.0	915	100.0

Table 17: Is Family Mediation or Litigation Better In Resolving Family Disputes?

	First Survey		Second Survey	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Litigation is better	55	6.6	26	2.8
Mediation is better	657	79.3	788	86.1
Don't know/No Answer	116	14.0	101	11.0
Total	828	100.0	915	100.0

Table 18: Should Family Mediation Be Promoted as the Means to Resolve Family Disputes?

	First Survey		Second Survey	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Yes, it should be promoted	709	85.6	850	97.8
No, it shouldn't be promoted	45	5.4	19	2.2
Don't know/No answer	74	8.9	46	5.0
Total	828	100.0	915	100.0

**Main Findings on Profiles of Service Users  
Receiving Family Mediation Service Under the  
Pilot Scheme on Family Mediation in Hong Kong**

Table 1: Age of Male Party

	N	Valid %
Below age 30	13	3.2
30-39	115	28.2
40-49	184	45.1
50-59	73	17.9
60-69	20	4.9
Age 70 or above	3	0.7
Total	408	100.0

Table 2: Age of Female Party

	N	Valid %
Below age 30	25	6.1
30-39	181	44.4
40-49	167	40.9
50-59	31	7.6
60-69	4	1.0
Total	480	100.0

Table 3: Cases by Length of Marriage in Years

	N	Valid %
Less than 5 years	30	7.4
5-9 years	106	26.1
10-14 years	101	24.9
15-19 years	78	19.2
20-24 years	63	15.5
25-29 years	15	3.7
30 years or above	13	3.2
No answer	2*	-
Total (cases)	408	100.0

\*Users forgot when to get marry (1 case) and couples have no marriage registration (1 case).

Table 4: Year Since Residence in Hong Kong (According to Male Party)

	N	Valid %
Before 1950	27	6.6
1950-59	122	29.9
1960-69	127	31.1
1970-79	81	19.9
1980-89	33	8.1
1990 and after	18	4.4
Total	408	100.0

Table 5: Year Since Residence in Hong Kong (According to Female Party)

	N	Valid %
Before 1950	9	2.2
1950-59	90	22.1
1960-69	125	30.7
1970-79	55	13.5
1980-89	34	8.4
1990 and after	94	23.1
No answer	1	-
Total	408	100.0

Table 6: Educational Level of Male Party

	N	Valid %
Primary or below	75	18.4
Form 1 to Form 3	86	21.1
Form 4 to Form 5	143	35.1
Matriculation	27	6.6
Tertiary (Diploma)	7	1.7
University (Degree)	52	12.8
Post-graduate	15	3.7
No formal Education	2	0.5
No answer	1	-
Total	408	100.0

Table 7: Educational Level of Female Parties

	N	Valid %
Primary or below	83	20.3
Form 1 to Form 3	63	15.4
Form 4 to Form 5	176	43.1
Matriculation	36	8.8
Tertiary (Diploma)	11	2.7
University (Degree)	29	7.1
Post-graduate	8	2.0
No formal Education	2	0.5
Total	408	100.0

Table 8: Occupation of Male Parties

	N	Valid %
Managers and administrators	38	9.3
Professionals	40	9.8
Associate Professional	41	10.0
Clerks	10	2.5
Service workers and shop sales workers	55	13.5
Agricultural & fishery skilled workers	2	0.5
Craft and related workers	77	18.9
Plant and machine operators and assemblers	49	12.0
Elementary occupations	28	6.9
Unemployed	53	13.0
Retired	15	3.7
Total	408	100.0



Table 9: Occupation of Female Parties

	N	Valid %
Managers and administrators	19	4.7
Professionals	25	6.1
Associate Professionals	36	8.8
Clerks	62	15.2
Service workers and shop sales workers	61	15.0
Craft and related workers	11	2.7
Plant and machine operators and assemblers	3	0.7
Elementary occupations	24	5.9
Homemaker	131	32.1
Unemployed	34	8.3
Retired	2	0.5
<b>Total</b>	<b>408</b>	<b>100.0</b>

Table 10: Monthly income of Male Parties

	N	Valid %
Less than \$4,000	3	0.7
\$4,000-\$9,999	79	19.4
\$10,000-\$16,999	96	23.5
\$17,000-\$24,999	53	13.0
\$25,000-\$39,999	40	9.8
More than \$40,000	47	11.5
Irregular or no paid employment	90	22.1
<b>Total</b>	<b>408</b>	<b>100.0</b>

Table 11: Monthly income of Female Parties

	N	Valid %
Less than \$4,000	18	4.4
\$4,000-\$9,999	90	22.1
\$10,000-\$16,999	50	12.3
\$17,000-\$24,999	35	8.6
\$25,000-\$39,999	30	7.4
More than \$40,000	12	2.9
Irregular or no paid employment	173	42.4
<b>Total</b>	<b>408</b>	<b>100.0</b>

Table 12: Cases by Number of Children Couples Have in Current Marriage

	N	Valid %
0	45	11.0
1	153	37.5
2	138	33.8
3	51	12.5
4	18	4.4
5	3	0.7
Total (Cases)	408	100.0

Table 13: Who Initiated Participation in the Pilot Scheme?

	N	Valid %
Male Party	138	33.8
Female Party	260	63.7
Joint	10	2.5
Total (Cases)	408	100.0

Table 14: Status of Applicants

	N	Valid %
Applicant for mediation service	174	42.6
As petitioner	170	41.7
As respondent	64	15.7
Total (Cases)	408	100.0

Table 15: Sources of Knowledge on Mediation Service (Male Party)

	N	Valid %
Partner	208	51.7
Lawyer	72	17.9
Social worker	24	6.0
Family Court Registry	20	5.0
Media	70	17.5
Friends/relatives	8	1.9
No answer	6	-
Total	408	100.0

Table 16: Sources of Knowledge on Mediation Service (Female Party)

	N	Valid %
Partner	100	25.0
Lawyer	142	35.5
Social worker	39	9.7
Family Court Registry	33	8.3
Media	67	16.7
Friends/relatives	19	4.8
No answer	8	-
<b>Total</b>	<b>408</b>	<b>100.0</b>

Table 17: Statistics on Parties' Legal Activities

	No	Yes	N.A.	Missing/ Not sure	Total
<b>Legal proceedings commenced?</b>					
<i>Male Party</i>	175	228	-	5	408
	<i>43.4</i>	<i>56.6</i>	-	-	<i>100.0</i>
<i>Female Party</i>	167	238	-	3	408
	<i>41.2</i>	<i>58.8</i>	-	-	<i>100.0</i>
<b>Legally Represented?</b>					
<i>Male Party</i>	269	134	-	5	408
	<i>66.7</i>	<i>33.3</i>	-	-	<i>100.0</i>
<i>Female Party</i>	161	243	-	4	408
	<i>39.9</i>	<i>60.1</i>	-	-	<i>100.0</i>
<b>Received legal aid?</b>					
<i>Male Party</i>	86	48	269*	7	408
	<i>64.2</i>	<i>35.8</i>	-	-	<i>100.0</i>
<i>Female Party</i>	102	141	161*	9	408
	<i>42.0</i>	<i>58.0</i>	-	-	<i>100.0</i>

Valid percentages are in *italics*.

\* Parties have no lawyers.

Table 18: Statistics on Parties' Initial Assessment for their Suitability for the Service

	No	Yes	N.A.		Total
<b>History of domestic violence?</b>					
<i>Male Party</i>	255	148	-	5	408
	<i>63.3</i>	<i>36.7</i>	-	-	<i>100.0</i>
<i>Female Party</i>	206	197	-	5	408
	<i>51.1</i>	<i>48.9</i>	-	-	<i>100.0</i>
<b>Is self at risk?</b>					
<i>Male Party</i>	389	13	-	6	408
	<i>96.8</i>	<i>3.2</i>	-	-	<i>100.0</i>
<i>Female Party</i>	356	47	-	5	408
	<i>88.3</i>	<i>11.7</i>	-	-	<i>100.0</i>
<b>Are children at risk?</b>					
<i>Male Party</i>	341	15	45*	7	408
	<i>95.8</i>	<i>4.2</i>	-	-	<i>100.0</i>
<i>Female Party</i>	345	15	45*	3	408
	<i>95.8</i>	<i>4.2</i>	-	-	<i>100.0</i>
<b>Has an injunction order been issued?</b>					
<i>Male Party</i>	388	14	-	6	408
	<i>96.5</i>	<i>3.5</i>	-	-	<i>100.0</i>
<i>Female Party</i>	393	9	-	6	408
	<i>97.8</i>	<i>2.2</i>	-	-	<i>100.0</i>
<b>Has health problem?</b>					
<i>Male Party</i>	319	84	-	5	408
	<i>79.2</i>	<i>20.8</i>	-	-	<i>100.0</i>
<i>Female Party</i>	308	94	-	6	408
	<i>76.6</i>	<i>23.4</i>	-	-	<i>100.0</i>

Valid percentages are in *italics*.

\* Parties have no children.

Table 19: Criteria for Selecting a Mediator (Male Party)

	N*	% in 408 cases
Free	335	82.1
Place	67	16.4
Time	4	1.0
Other party's choice	106	26.0
Social worker	19	4.7
Lawyer	26	6.4
Marital counsellors	1	0.2
Not lawyer	1	0.2
SWD	6	1.5
NGO	1	0.2
Language	3	0.7
No preference indicated	39	9.6

\*Each user can have more than one criterion, except for those have no preference indicated.

Table 20: Criteria for Selecting a Mediator (Female Party)

	N*	% in 408 cases
Free	342	83.8
Place	106	26.0
Time	2	0.5
Other party's choice	61	15.0
Social worker	24	5.9
Lawyer	32	7.8
Marital counsellors	1	0.2
Not lawyer	1	0.2
SWD	10	2.5
NGO	1	0.2
Language	2	0.5
Same sex	3	0.7
Opposite sex	1	0.2
Ethnicity	3	0.7
Religious background	1	0.2
No preference indicated	41	10.0

\*Each user can have more than one criterion, except for those have no preference indicated.

Table 21: Institutional Backgrounds of Mediators

	N	Valid %
SWD	115	28.2
NGOs	138	33.8
Mediators in Private Practice	155	38.0
Total (Cases)	408	100.0

Table 22: Statistics on Parties' Initial Assessment for the Suitability of Mediation

	No	Yes	N.A.	Missing/ Not sure	Total
Has domestic violence? (M)	255	148	-	5	408
	<i>63.3</i>	<i>36.7</i>	-	-	<i>100.0</i>
Has domestic violence? (F)	206	197	-	5	408
	<i>51.1</i>	<i>48.9</i>	-	-	<i>100.0</i>
Is self at risk? (M)	389	13	-	6	408
	<i>96.8</i>	<i>3.2</i>	-	-	<i>100.0</i>
Is self at risk? (F)	356	47	-	5	408
	<i>88.3</i>	<i>11.7</i>	-	-	<i>100.0</i>
Are children at risk? (M)	341	15	45*	7	408
	<i>95.8</i>	<i>4.2</i>	-	-	<i>100.0</i>
Are children at risk? (F)	345	15	45*	3	408
	<i>95.8</i>	<i>4.2</i>	-	-	<i>100.0</i>
Has injunction order? (M)	388	14	-	6	408
	<i>96.5</i>	<i>3.5</i>	-	-	<i>100.0</i>
Has injunction order? (F)	393	9	-	6	408
	<i>97.8</i>	<i>2.2</i>	-	-	<i>100.0</i>
Has health problem? (M)	319	84	-	5	408
	<i>79.2</i>	<i>20.8</i>	-	-	<i>100.0</i>
Has health problem? (F)	308	94	-	6	408
	<i>76.6</i>	<i>23.4</i>	-	-	<i>100.0</i>

Valid percentages are in *italics*.

\* Parties have no children.

**Table 23: Number of Disputed Cases with Agreements Reached**

	N
Child custody	190
Child access	193
Financial support for spouse	207
Financial support for child	186
Accommodation/property	174
Financial matters	103

**Table 24: Mediation Outcomes**

	N	Valid %
Full agreement reached	239	58.6
Partial agreement reached	31	7.6
No agreement reached	138	33.8
Total (Cases)	408	100.0

**Table 25: Duration of Mediation (in hours)**

	N	Valid %
No mediation service	7	1.7
Less than 2 hours	18	4.4
2 - 4.99 hours	83	20.3
5 - 7.99 hours	106	26.0
8 - 10.99 hours	79	19.4
11 - 14.99 hours	72	17.6
More than 15 hours	43	10.5
Total (Cases)	408	100.0

**Table 26: Days Taken from Application to Initial Assessment (Male Party)**

	N	Valid %
Within 7 days	60	14.7
8-30 days	243	59.6
31-60 days	64	15.7
61-90 days	21	5.1
More than 90days	20	4.9
Total	408	100.0

Table 27: Days Taken from Application to Initial Assessment (Female Party)

	N	Valid %
Within 7 days	68	16.7
8-30 days	243	59.6
31-60 days	58	14.2
61-90 days	21	5.1
More than 90days	18	4.4
Total	408	100.0

Table 28: Days Taken from Initial Assessment to Referral to Mediator (Male Party)

	N	Valid %
Within 7 days	355	87.0
8-30 days	42	10.3
31-60 days	8	2.0
61-90 days	3	0.7
Total	408	100.0

Table 29: Days Taken from Initial Assessment to Referral to Mediator (Female Party)

	N	Valid %
Within 7 days	326	79.9
8-30 days	71	17.4
31-60 days	9	2.2
61-90 days	2	0.5
Total	408	100.0



**Table 30: Days Taken for Mediator to Complete a Case**

	N	Valid %
Within 7 days	15	3.7
8-30 days	97	23.8
31-60 days	113	27.7
61-90 days	77	18.9
91-120 days	43	10.5
121-150 days	23	5.6
151-180 days	13	3.2
More than 180 days	27	6.6
Total (Cases)	408	100.0

**Table 31: Days Taken from Application to Completion of Mediation**

	N	Valid %
Within 7 days	2	0.5
8-30 days	23	5.6
31-60 days	101	24.8
61-90 days	89	21.8
91-120 days	77	18.9
121-150 days	42	10.3
151-180 days	29	7.1
More than 180 days	45	11.0
Total (Cases)	408	100.0

**Main Findings from the  
Users Satisfaction Survey  
Pilot Scheme on Family Mediation in Hong Kong**

Table 1: Number of Respondents in *User Satisfaction Survey* by Sex

	N	Valid %
Male	107	45.0
Female	131	55.0
Total	238	100.0

Table 2: No. of Respondents in *User Satisfaction Survey* by Age Group

	N	Valid %
Under 30	15	6.3
30-39	74	31.1
40-49	116	48.7
50-59	29	12.2
60-69	2	0.8
70 or over	2	0.8
Total	238	100.0

Table 3: Whether mediation service is provided by single or co-mediators

	N	Valid %
Single mediator	234	98.3
Co-mediators	4	1.7
Total	238	100.0

Table 4: Sex of first mediator

	N	Valid %
Male	22	9.2
Female	216	90.8
Total	238	100.0

Table 5: Sex of the second mediator

	N	Valid %
Male	4	100.0
Not applicable*	234	-
Total	238	100.0

\* Respondents only have single-mediator's service

Table 6: Professional background of the first mediator

	N	Valid %
Lawyer	75	32.5
Social worker	147	63.6
Psychologist	1	0.4
Others	8	3.5
Don't know/no answer	7	-
Total	238	100.0

Table 7: Professional background of the second mediator

	N	Valid %
Lawyer	4	100.0
Not applicable*	234	-
Total	238	100.0

\* Respondents only have single-mediator's service

Table 8: Agency background of the first mediator

	N	Valid %
The Social Welfare Department	70	31.0
Non-governmental Organizations	75	33.2
Private Practice	81	35.8
Don't know/no answer	12	-
Total	238	100.0

Table 9: Agency background of the second mediator

	N	Valid %
Private Practice	4	100.0
Not applicable*	234	-
Total	238	100.0

\* Respondents only have single-mediator's service

Table 10: Number of joint sessions with the mediator

Number of Sessions	N	Valid %
0	12	5.0
1	62	26.1
2	70	29.4
3	56	23.5
4	15	6.3
5	10	4.2
6	6	2.5
8	3	1.3
10	1	0.4
15	2	0.8
25	1	0.4
Total	238	100.0

Table 11: Number of individual sessions with the mediator

Number of Sessions	N	Valid %
0	15	6.4
1	128	54.5
2	52	22.1
3	25	10.6
4	7	3.0
5	6	2.6
7	1	0.4
9	1	0.4
No answer	3	-
Total	238	100.0

Table 12: Had mediator ever provided legal advice to service users on mediation items?

	N	Valid %
Yes	66	28.9
No	162	71.1
No answer	10	-
Total	238	100.0

Table 13: Had mediator ever offered psychological/emotional counselling service to the user?

	N	Valid %
Yes	62	26.7
No	170	73.3
No answer	6	-
Total	238	100.0

Table 14: Had mediator ever taken side during mediation?

	N	Valid %
Yes	37	15.7
No	198	84.3
No answer	3	-
Total	238	100.0

Table 15: Had mediator ever made decisions for the service user?

	N	Valid %
Yes	8	3.4
No	228	96.6
No answer	2	-
Total	238	100.0

Table 16: To what extent were service users satisfied with the settlements on the issues of dispute with their spouses through mediation service?

	N	Valid %
Very much satisfied	35	15.2
Satisfied	111	48.1
Neither satisfied nor dissatisfied	29	12.6
Dissatisfied	36	15.6
Very much dissatisfied	20	8.7
Not applicable (no dispute items)	7	-
Total	238	100.0

Table 17: Did service users agree that the fees they paid for the mediation service was fair?

	N	Valid %
Very fair	1	25.0
Fair	1	25.0
Unfair	2	50.0
Not applicable (Don't need to pay)	228	-
No answer	6	-
Total	234	100.0

Table 18: Did users agree that they were able to discuss issues of dispute with their spouses through mediation service in a peaceful manner?

	N	Valid %
Very much agreed	33	14.5
Agreed	119	52.2
No comment	25	11.0
Disagreed	45	19.7
Very much disagreed	6	2.6
Not applicable	7	-
No answer	3	-
Total	238	100.0

Table 19: Did users agree that they were able to discuss issues of dispute with their spouses through mediation service in a reasonable manner?

	N	Valid %
Very much agreed	23	10.2
Agreed	115	50.9
No comment	28	12.4
Disagreed	49	21.7
Very much disagreed	11	4.9
Not applicable	7	-
No answer	5	-
Total	238	100.0

Table 20: Overall speaking, were users satisfied with the mediation service that they had received?

	N	Valid %
Very much satisfied	49	20.8
Satisfied	133	56.4
Neither satisfied nor dissatisfied	26	11.0
Dissatisfied	19	8.1
Very much dissatisfied	9	3.8
No answer	2	-
Total	238	100.0

Table 21: Would users recommend mediation service to their friends/relatives in the future?

	N	Valid %
Yes, certainly	186	78.5
Not sure	22	9.3
No, certainly not	29	12.2
No answer	1	-
Total	238	100.0