

LCQ5: Promoting use of mediation to resolve disputes

Following is a question by the Hon Yung Hoi-yan and a written reply by the Secretary for Justice, Ms Teresa Cheng, SC, in the Legislative Council today (February 23):

Question:

To promote the more extensive use of mediation in Hong Kong to resolve disputes, the Government established the West Kowloon Mediation Centre (WKMC) in November 2018, and appointed the Joint Mediation Helpline Office (JMHO) (a non-profit-making organisation) to operate WKMC and implement a Pilot Mediation Scheme (the Pilot Scheme). In this connection, will the Government inform this Council:

(1) of (i) the respective numbers of cases received, handled and successfully mediated by WKMC (with a breakdown by type of cases), and (ii) the average time taken to handle each case, in each year since its commissioning;

(2) whether it will, by drawing reference from the practice of the authorities in Singapore in setting up the Maxwell Chambers, set up a similar facility dedicated to providing one-stop alternative dispute resolution services, so as to further promote the development of mediation and arbitration services in Hong Kong; if so, of the details; if not, the reasons for that;

(3) as it is learnt that the Pilot Scheme will end soon, whether the Government will regularise the Scheme and continue to appoint JMHO to operate WKMC; if not, whether it will assist JMHO in identifying an office facility which is suitable for JMHO's provision of mediation services in the long run; and

(4) of the new measures in place to further promote the use of mediation to resolve disputes; whether it will establish, in various districts of the territory, mediation centres similar to the aforesaid one, and step up publicity among members of the public on the use of mediation as an alternative to litigation; if so, of the details; if not, the reasons for that?

Reply:

President,

My reply to the various parts of the question raised by the Hon Yung Hoi-yan is as follows:

(1) and (3) According to the information provided by the Joint Mediation Helpline Office (JMHO), for the period from November 8, 2018 to October 31, 2021, the West Kowloon Mediation Centre (WKMC) received a total of 856

applications for mediation, among which mediation was conducted for 587 cases. Settlement was reached in 293 cases out of those mediated cases. Among all applications received, the most common types of disputes were goods and services (23.9 per cent), water seepage/leakage (18.6 per cent), rental/tenancy agreement (14.7 per cent) and construction/renovation (14.4 per cent). For the aforementioned cases, the average duration from appointment of mediator to completion of mediation case was around 11.6 working days, and the average time spent in mediation was around 4.51 hours.

The Small Claims Mediation Pilot Scheme (Pilot Scheme) implemented at the WKMC is operated by the JMHO as the independent co-ordinator appointed by the Government. The Pilot Scheme shall continue to operate until June 30, 2022. The Department of Justice (DoJ) and the Judiciary support the continuation of this WKMC initiative. The DoJ and the Judiciary will maintain communication with other stakeholders, and announce the future arrangement of the WKMC at a suitable juncture.

In regard to the operation of individual institutions, the Government respects their institutional autonomy and it would not be appropriate to interfere with their future operation.

(2) The Government attaches great importance to the rule of law and law-related services, including alternative dispute resolution processes and dispute resolution services. In order to attract reputable international legal and dispute resolution services bodies to set up offices or provide services in Hong Kong as well as to consolidate and enhance Hong Kong's status as an international centre for legal, deal-making and dispute resolution services in the Asia-Pacific region, the Government established the Hong Kong Legal Hub (Legal Hub) which was officially opened in November 2020.

The Legal Hub encompasses areas including part of the West Wing of the former Central Government Offices (CGO) (a Grade 1 historic building now known as the Justice Place) and a declared monument nearby – the former French Mission Building, as well as part of Two Exchange Square, and together with the offices of the DoJ housed in the Main and East Wings and part of the West Wing of the former CGO, an international legal hub is formed in our central business district.

The Legal Hub would enable law-related organisations (LROs) to develop their services, and create a favourable environment to attract more international legal, arbitration and mediation institutions to set up offices in Hong Kong, thereby enhancing the competitiveness of Hong Kong as a centre for international legal and dispute resolution services in the Asia-Pacific region. Setting up these LROs in the same area would create synergy in their operations, facilitate efficient use of common facilities for training, conferencing activities and as venues for mediation and arbitration, and promote alternative dispute resolution processes and dispute resolution services.

There are currently around 20 local, regional and international LROs situated in the Legal Hub, many of whom are involved in dispute resolution

work. These include the Chartered Institute of Arbitrators (East Asia Branch), China International Economic and Trade Arbitration Commission Hong Kong Arbitration Center, China Maritime Arbitration Commission Hong Kong Arbitration Center, eBRAM International Online Dispute Resolution Centre Limited, Hong Kong Institute of Arbitrators, Hong Kong International Arbitration Centre, the Secretariat of the International Court of Arbitration of the International Chamber of Commerce Asia Office, and the Hong Kong Maritime Arbitration Group. The Asian-African Legal Consultative Organization (AALCO) Hong Kong Regional Arbitration Centre will also be officially opened at the Legal Hub very soon.

(4) The Government has always supported and implemented initiatives to promote the idea of first considering mediation in resolving disputes in different sectors. For example, the DoJ has launched the "Mediate First" Pledge campaign, with a view to encouraging all sectors in the community to first explore the use of mediation in dispute resolution, before resorting to other dispute resolution means or litigation. The DoJ recently held the Seminar on Cross-boundary Family Mediation on February 16, 2022, in order to raise the public awareness of using mediation in cross-boundary family disputes. The DoJ will also organise the biennial Mediation Week 2022 and the Mediation Conference 2022, to further promote and encourage the public to use mediation to resolve different kinds of disputes.

Apart from the above initiatives, other government departments and the Judiciary have also implemented a variety of policies and initiatives to facilitate the public's understanding and the use of mediation in different aspects. Looking forward, the Government will continue to implement policy initiatives as appropriate to encourage the public to use mediation first as an alternative to litigation to resolve disputes.