

HKICM Mediation Scheme 2019

(I) Background

1. To provide a comprehensive package of mediation services collaborating with the Government of HKSAR in the promotion of alternative dispute resolution ('ADR') as an effective dispute resolution mechanism, Hong Kong Institute of Construction Managers ('Institute' or 'HKICM') provides a mediation scheme to the public.

(II) Coverage of Mediation Service

2. Public, our target clientele, includes developers, employers, construction/renovation contractors and consultants either companies and/or individuals in business with any of the above entities as well as households.

3. Cases are those disputes in connection with construction including but not limited to design for construction, procurement of materials, building services, building surveying, engineering, quantity surveying, structural engineering, minor works, contract termination, defects and compensation on cost and time, etc.

(III) The Choice of the Institute

4. Within HKICM List of Accredited Mediators ("List"), you will find the names of our Accredited Mediators in Hong Kong who are also senior members of the Institute. The Accredited Mediators on our List come from backgrounds including Professors, Architects, Engineers, Building Surveyors, Quantity Surveyors, Project Managers, Construction Managers, Barristers, Solicitors, etc. and are renowned personnel within their respective disciplines of the construction sector.

5. With a strong team of experienced Accredited Mediators, the Institute has in place an established set of referral procedures to assist parties of a dispute requesting mediation in appointment of mediator (see Annex 1 - Mediation Process Flowchart for details) and HKICM Dispute Resolution Committee can assist in answering any queries on the process.

(IV) The Scheme

6. It generally comprises: -
- » A 4-hour mediation service at HK\$5,000 (non-refundable and payable at sign-off of the agreement) to mediate by the parties for dispute case below the value of HK\$3 million (we do not accept dispute case over HK\$3 million in general) ;
 - » Parties are required to contribute another HK\$1,000 for each case to the Institute to cover part of the administrative expenses of the Secretariat in handling their cases.
 - » mediation beyond 4 hours will be separately agreed between the Appointed Mediator and the parties in dispute, fees will be agreed upon among the parties and be shared equally between parties in dispute;

- » venue charges will be borne by parties in dispute equally; and
- » Appointed Mediator, with cases assigned from the Secretariat, is required to report back to the Secretariat when the case is completed.

** All cost to be equally shared by the parties and not refundable.*

7. If a party to the dispute proposes a mediator which is accepted by the other party, the appointment of that mediator must be recorded in a written agreement signed by the parties and pass to the Secretariat. If parties are not able to agree on the mediator, then assigning of mediator shall be dealt with by the HKICM Dispute Resolution Committee. Once the appointment of the mediator is accepted by the parties in dispute, the mediator so appointed will contact the parties directly.

8. The Secretariat of HKICM would provide assistance to the handling of the mediation process by communicating among the parties, Mediator members of the Institute and the HKICM Dispute Resolution Committee. Once the case is assigned, the Secretariat would pass over the materials to the Appointed Mediator for handling.

9. The appointed Mediator is required to report the closeout of the case within two months of taking up the case, advise on “Settled” or “Not Settled”. If the case has yet to complete after the first two months, the appointed Mediator shall report to the Secretariat by email by the last date of every month until the case reaches its completion. This is to ensure the process can be conducted effectively and to avoid any unnecessary delay in the process.

10. The Institute shall not be held liable for the conduct of the Appointed Mediators, the process nor result of the mediation. The mediation agreement is strictly between the Appointed Mediator and the parties to the dispute. Support by the Institute will cease when this agreement is reached (or as completed by the Mediator). It is not required to disclose the “mediation agreement” to the Institute and the Institute would not be involved in the parties’ compliance with the agreement.

11. HKICM can provide one-stop mediation referral services for parties in need of mediation services, particularly for parties in litigation. Parties now need only to fill in and submit a request for mediation service form (Annex 2 – Request for Mediation Service Form). The Institute shall then refer those parties with agreement to mediate to appoint the mediator and commence the mediation.

12. For any queries regarding the mediation scheme or the request for mediation service, please contact the Secretariat at Tel: (852) 2523 2081 or by e-mail at mediation@hkicm.org.hk.

Dispute Resolution Committee
20 September 2019