

Law Reform Commission report focuses on family dispute resolution

The Law Reform Commission today (March 27) announced the publication of its report, The Family Dispute Resolution Process.

The report looks at the various approaches that may be adopted in resolving family disputes, and focuses on the use of mediation. The report makes recommendations to strengthen family mediation services and to enhance the family litigation process.

The Chairperson of the Commission's Sub-committee on Guardianship and Custody, the Hon Ms Miriam Lau, explained that the commission's proposals were aimed at minimising the adversarial nature of family proceedings so as to promote the best interests of the child.

"We believe that the emotional harm experienced by parties involved in family proceedings, especially children, can be greatly reduced if mediation is used to resolve the matters in dispute between the parties," Ms Lau said. "We therefore propose that the use of family mediation should be strongly supported and encouraged by the courts and the administration."

In relation to support services for family mediation, the commission endorses the Pilot Scheme on Family Mediation that is currently operating at the Family Court, and recommends that providing access to, and promoting, mediation services should be an integral part of the Family Court system. In line with current arrangements under the Pilot Scheme, the report recommends that free, court-based information sessions should be provided to parties contemplating divorce, to inform them about family support services and alternatives to litigation, such as mediation.

Counselling conferences should also be introduced. Their purpose would be to assist divorcing parties to resolve emotional conflicts which may be preventing them from reaching agreement on practical issues, particularly the future custody and access arrangements for their children. The report also recommends that solicitors should be obliged to advise their clients about the information sessions, counselling and mediation services available.

Ms Lau said the report's recommendations aimed to ensure that mediation in Hong Kong operated in accordance with clear guidelines and with adequate resources so that the integrity of the process and the quality of mediation services would be maintained.

The recommendations on mediation relate to the training and accreditation of mediators, guidelines on separation of roles for mediators who are also lawyers and social welfare officers, and mechanisms to allow the views of the child to be considered in the mediation process. The commission also recommends that legal aid should be available for mediation.

Ms Lau said the commission also proposed a new, streamlined court process for dealing with family cases. "A key feature of this process is the application of case

management strategies to minimise delay, as delay is obviously contrary to the best interests of the child," she said.

Recommendations for improvements to the family litigation process include more powers to judges to manage the course of family proceedings and to control costs, the introduction of target times for the disposal of civil cases concerning children, the holding of issues and settlement conferences to further promote agreement between the parties, and the introduction of target times for the production of social welfare reports.

The commission also recommends that more statistics on child-related cases be maintained by the Family Court, but that children's privacy should be protected by controlling the release of unreported judgements concerning children. The report endorses the adoption of codes of practice for lawyers dealing with family cases, especially those involving children.

The Family Dispute Resolution Process report is the third in a series of four reports being published by the Law Reform Commission under its reference on guardianship and custody of children. The first two reports, on Guardianship of Children and International Parental Child Abduction, were published by the Commission last year. Its report on custody and access is expected to be released later this year.

Copies of the report are available on request from the Law Reform Commission Secretariat, 20/F, Harcourt House, 39 Gloucester Road, Wan Chai, Hong Kong. The report can also be found on the Internet at www.info.gov.hk/hkreform.

End/Thursday, March 27, 2003
NNNN