

**Application for Approval to Engage Mediator
(Form X70)**

To: Director of Legal Aid

Our Ref : _____
L.A. Ref. no : _____
Court Action no. (if any) : _____
Name of aided person : _____

A. Particulars of the nominated mediator:

1. Name - (English): (Surname) (Mr/Mrs/Miss/Ms)
(Other name) (in full)
(Chinese): _____
2. Address: _____

3. Telephone: _____
4. Date of accreditation as mediator (if available): _____
5. Field / Expertise: _____ (see Mediator's CV attached)
6. Experience as mediator in the field of dispute: _____
7. Mediation fees:-
 Hourly rate: HK\$ _____ per hour
 Half-day basis: HK\$ _____ per half-day / HK\$ _____ average hourly rate
 Daily basis: HK\$ _____ per day / HK\$ _____ average hourly rate
(If the rate is on daily or half-day basis, please provide average hourly rate for statistical purpose.)
8. Estimated no. of hours required for mediation in this case: _____
9. Incidental expenses (e.g. hiring of venue) if any: (please specify) _____

B. Proposed terms of payment of mediator's fee and expenses:

- equally shared between parties initially and ultimately be costs in the cause
- equally shared between parties irrespective of the result
- borne by the opposite party in any event
- others: please specify: _____

To be completed by the assigned solicitor

I, _____, solicitor acting for the aided person in the above case/proceedings, confirm that:

- a) I have advised the aided person of the availability of Alternative Dispute Resolution which includes mediation.
- b) The aided person wishes to attempt mediation.
- c) This case is suitable for mediation.
- d) This case is ready for mediation.
- e) The mediator nominated is suitable for this case.
- f) The hourly rate/fees of the nominated mediator and incidental expenses is/are reasonable.
- g) I have advised the aided person that if he / she recovers or preserves property in the proceedings / has to pay a contribution, mediation costs will form part of the Director's First Charge / be paid out of the contribution.
- h) I have obtained the consent of the aided person on the choice of mediator and payment terms.
- i) I am required to seek prior approval if I wish to attend family mediation with the aided person, with justification.
- j) I have advised and/or will advise the aided person on the following matters prior to mediation to facilitate settlement negotiation in mediation:-
 - (1) the duty of the aided person in facilitating the settlement of dispute, in engaging in mediation to the minimum level of participation agreed to by the parties or as directed by the Court, and in giving full assistance to enable the mediation to proceed and be concluded within the time stipulated;
 - (2) the operation of the Director's First Charge and its effect on the aided person;
 - (3) the likely amount of damages (BOTH the best and the worst case scenario figure) / value of property to be recovered or preserved;
 - (4) the amount of costs involved, including a realistic assessment of costs already incurred (including costs already lost e.g. in interlocutory proceedings, if any) and likely to be incurred if no settlement could be reached;
 - (5) merits (both liabilities and quantum) of the aided person's case and litigation risk, including an objective assessment of the evidence (both favorable and unfavorable) of the aided person and the opposite party; and
 - (6) reasonable offer / counter-offer the aided person should make in mediation.

Signature of the Assigned Solicitor : _____
Name of the Assigned Solicitor : _____
Name of Firm : _____
Date : _____

To be completed by the aided person

I agree to engage Mr/Mrs/Miss/Ms. _____ as the mediator in the above case/proceedings.

I am advised by my assigned solicitor of the payment terms and that the Director of Legal Aid (the Director) will first pay the mediator my share of his/her charges of the mediation, if any, on my behalf. I understand that if I recover or preserve property in the proceedings (e.g. compensation / damages) / have paid / have to pay a contribution, mediation costs will form part of the Director's First Charge / be paid out of the contribution.

I understand that I have a duty to facilitate settlement in mediation. I am required to engage in mediation to the minimum level of participation agreed to by the parties or as directed by the Court and shall give full assistance to enable the mediation to proceed and be concluded within the time stipulated. I should prior to mediation familiarize myself with the parties' case including issues in dispute, the chance of success, litigation risks, amount of damages, costs already / to be incurred (if mediation failed) and the chance of recovery of costs. I also understand that the Director shall be informed of the mediation process and if I require my case to be conducted unreasonably including refusing to accept or put forward a reasonable settlement offer, legal aid may be discharged.

Signature of Aided Person : _____
Name of Aided Person : _____
Date : _____

申請批准委聘調解員
(表格 X70)

致：法律援助署署長

本行檔號 _____ :
法援署檔號 _____ :
訴訟編號(如適用) _____ :
受助人姓名 _____ :

A. 獲委任的調解員資料：

1. 姓名(英文)：(姓) _____ (先生/太太/女士)
(名) _____ (全名)

(中文)： _____

2. 地址： _____

3. 電話： _____

4. 成為認可調解員的日期(如適用)： _____

5. 界別／專長： _____ (請參閱夾附的調解員簡歷)

6. 調解員在解決糾紛方面的經驗： _____

7. 收費：

以每小時港幣 _____ 計算

以每半日港幣 _____ 計算 / 平均每小時收費港幣 _____

以每日港幣 _____ 計算 / 平均每小時收費港幣 _____

(如收費是按日或半日計算，請提供平均每小時收費，以作統計之用。)

8. 估計本案所需的調解時數： _____

9. 附帶費用(如租用場地)(如有者)：(請說明) _____

B. 調解員費用及開支的建議付款方式：

最初由雙方平均分擔，但最終會歸於訟案中的訟費內

無論調解結果如何，均由雙方平均分擔

在任何情況下均由對訟一方承擔

其他，請說明： _____

由外委律師填寫

本人_____乃受助人於上述案件 / 訴訟的代表律師，現確認：

- a) 本人已告知受助人可選擇另類辦法解決糾紛，包括調解服務。
- b) 受助人希望嘗試調解。
- c) 本個案適合調解。
- d) 本個案已準備就緒，可進行調解。
- e) 獲委任的調解員適合調解本個案。
- f) 獲委任的調解員收取的時薪 / 費用和附帶費用合理。
- g) 本人已告知受助人，如他 / 她在訴訟中收回或保留財產 / 須支付分擔費，調解費用將成為第一押記的一部分 / 由分擔費支付。
- h) 本人已把調解員的人選和付款方式告知受助人，並已取得其同意。
- i) 如本人欲與受助人一同出席家事調解，本人須先交代理由及事前獲得批准。
- j) 我已經及 / 或將在進行調解之前就以下事項向受助人作出解釋及提供意見：
 - (1) 受助人促使解決爭議的責任，受助人須達到各方之前所協定或法庭所指示的最低參與程度，及應全力協助調解的進行，使之能在規定時限內達成；
 - (2) 法律援助署署長的第一押記的運作及對受助人的影響；
 - (3) 受助人可能獲得的賠償額(分別在最佳和最壞的兩種情況下) / 可討回或保留的財產的價值；
 - (4) 所涉及的訟費金額，包括就現時已招致的訟費的實際評估(包括須支付對訟一方的訟費，如有的話)，以及如未能達成和解而繼續訴訟可能招致的訟費；
 - (5) 受助人案情的理據(責任及賠償額)及訴訟風險，包括就與訟雙方有利及不利的證據的客觀評估；
 - (6) 受助人在調解過程中應提出的合理和解方案 / 反建議。

外委律師簽署 : _____
外委律師姓名 : _____
律師行名稱 : _____
日期 : _____

由受助人填寫

本人同意聘請_____先生/太太/女士為上述案件／
訴訟的調解員。

外委律師已向本人解釋調解費用的付款方式，本人所須分擔的部分(如有者)將由法律援助署署長(署長)先行代為支付。本人明白，如本人在訴訟中收回或保留財產(如補償金／損害賠償金)／已支付／須支付分擔費，調解費用將成為署長第一押記的一部分／由分擔費支付。

本人明白我有責任在調解中促使達成和解，並須達到各方之前所協定或法庭所指示的最低參與程度，且應全力協助調解的進行，使之能在規定時限內達成。本人應在進行調解之前向外委律師詳細了解雙方的案情包括爭議項目、訴訟的勝訴機會及風險、賠償金額、已招致及將招致的訟費(如調解不成功)、能成功討回訟費的機會等，以求在調解中爭取最合理的和解。本人亦明白署長須得悉調解的過程，而假如我要求以不合理的方式進行案件包括拒絕接受或提出合理的和解方案，法律援助可能會被取消。

受助人簽署 : _____
受助人姓名 : _____
日期 : _____