

# Professionalism in the Mediation Industry : A Singapore perspective

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## Mediation : Some perspectives

1. A professional, and accepted form of ADR. Cf Singapore Rules of Court 2021
2. Adequate literature on underlying principles, philosophies.
3. Practised internationally; various forms across different industries and settings :
  - Professional sector → e.g. construction – RICS' mediation service
  - Social realm → e.g. Family – compulsory under AU family law to attempt mediation before filing for parenting orders; SG Family Courts also incorporate mediation into their processes – mediator sits next to the judge for certain hearings
  - Inter-gov/x-cutting industry → e.g Intellectual Property – WIPO's Arbitration & Mediation Centre (AMC)

## Mediation : Some perspectives (cont'd)

4. **BUT** ... is largely unregulated/fragmented worldwide as a profession and professional DR process. E.g. qualifications, conduct, procedural rules – left to largely private institutions to determine.
5. **Despite this** ... Singapore Convention on Mediation (Art 5(1)(e), (f)) – elevates the status of mediators; highlights the importance of **exercising professionalism** in mediation → Courts can refuse enforcement of MSA if there was a “serious breach” of “applicable” standards.

## Mediation : Some perspectives (cont'd)

**BUT WHY DO YOU SAY : “A MEDIATOR IS ABLE TO RESOLVE DISPUTES EFFECTIVELY” ?**

**ARE THEY REALLY EXPERTS IN RESOLVING DISPUTES ? WHY AND HOW ?**

## Mediation : Some perspectives (cont'd)

**Therefore** : Industry grapples with...

Qn 1 : “Light touch” → Who is looking into the issue of **professional conduct** of mediators, and mediation as a **professional process** ?

Qn : How does mediation inspire **TRUST** in disputants if they are unclear about mediation as a:

- (i) Profession; and
- (ii) Professional (and thus effective and efficient) DR process ?

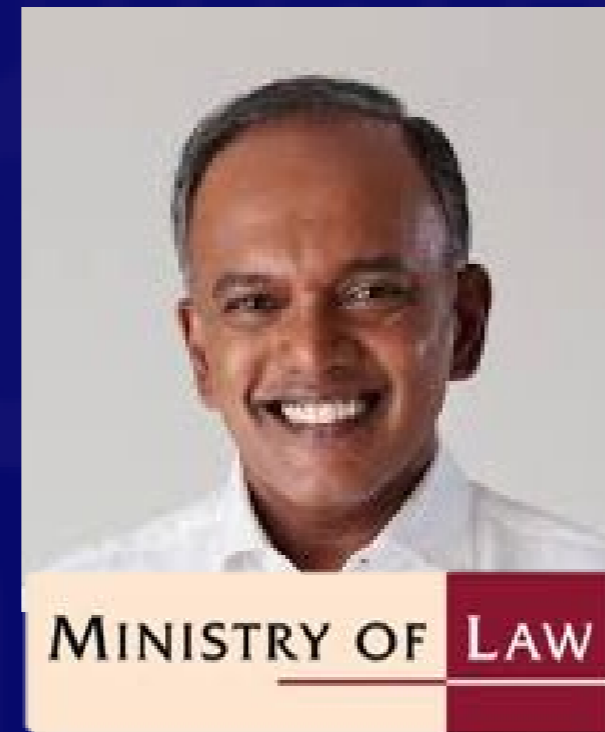
Singapore has sought to address these issues !

Through the Singapore International Mediation Institute



# SIMI's Origins

2013  
April



## Working Group

Developing Singapore For International Commercial Mediation  
*For more information see "FINAL ICMWG Press Release"*



## SIMI's origins (cont'd)

### WHY SIMI?

**“ensure professionalism and...raise standards in mediation...”** (*para 8, final ICMWG Press Release*) → **“support the devt of international commercial mediation services and capabilities”**

## What does SIMI do?

SIMI as a **standards setting** body – our mission :

- **Set and achieve high mediation standards through the professionalization of mediation**
- Promote understanding and **inspire the use of mediation**
- Stimulate and facilitate the **development and growth of mediation** through **research and innovation**
- **Foster a strong mediation community in Asia** by engaging stakeholders in discussion, events and outreach activities

## What does SIMI do ?

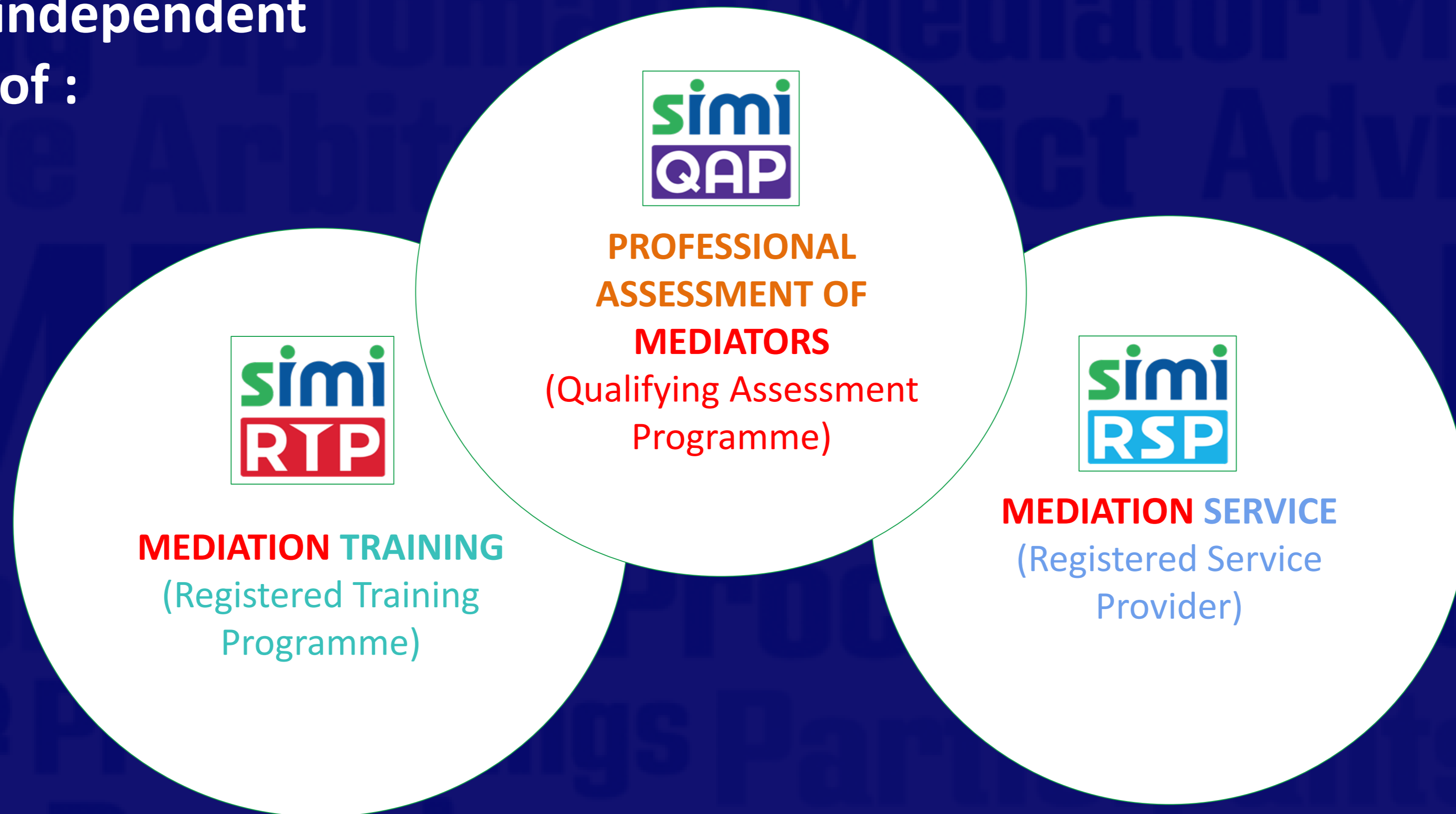
How does SIMI set and maintain industry standards ?

### Accreditation :

SIMI acts as an **external independent 3<sup>rd</sup> party** to formally recognise that training bodies and service providers are competent to provide their services up to a certain quality.

## Accreditation of Partners

Professional, independent  
accreditation of :



# Accreditation of Partners



- Training bodies, service providers and assessment bodies that wish to be accredited by SIMI must show in their application form that they meet certain criteria fixed by SIMI.
- Each applicant is provided a customized audit report this – allows it to show unique selling points
- Current focus is on setting **minimum thresholds** and raising standards – not standardization

## Registered Training Program

Applicant organisations should show how their training incorporates 5 pillars, e.g. :

- Cultural sensitivity and intercultural awareness
- Conflict resolution theory
- Mediation legislation
- Mediation techniques
- Mediation theory

Also must set out clearly :

- Course assessment methods (incl grading/passing criteria)
- Process for selection of assessors (e.g. what qualifications they have, where they are accredited).

## Registered Training Program



### Improvements made/in progress :

- (i) In future : RTPs to incorporate a **SIMI Competency Framework** which makes clear the skills mediators must be trained in.
- (ii) Improved SIMI Code of Conduct to sharpen professional responsibility concepts (Published Nov 2023).

# SIMI Competency Framework for Mediators



# Relationship Management

## Communication Skills

- Ability to understand and demonstrate active listening, reframing, rephrasing and empathy.
- Ability to understand kinesics and apply it appropriately
- Ability to facilitate direct communication
- Ability to build rapport, confidence, and trust

## Cultural Fluency

- Ability to interact with all disputants by showing openness, inclusiveness and sensitivity.



## Registered Service Provider (RSP)

Applicant organisations should show, e.g. :

- Details of their mediation services, including **process to select appropriate panel – what is their eligibility criteria**
- Process to record mediation sessions – parties, case records, feedback records
- Verification of mediation hours for mediators – that a full scale mediation\* has taken place
- Other administrative details, e.g. fees, facilities for mediations

*\* "Full scale mediation" - > 6 hrs OR where parties and mediator have gone through key mediation processes and phases.*

## Qualifying Assessment Programme (QAP)



Applicant organisations should show, e.g.

- Matters covered in applications for RTPs & RSPs
- Process/methodology for assessing mediators
- **How assessors are selected**
- Professional assessment to reach SIMI Certified level on the Credentialing Scheme

# Standards Eco-system

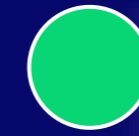
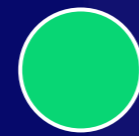
SIMI Accredited Mediator

SIMI Certified Mediator

Level 1

Level 2

Level 3





## (I) Unique 4-tier accreditation and certification path for mediators

→ Mediators with less experience can grow their experience step by step :

Level 2 (undertake 5 full mediations in 2 years);

Level 3 (undertake 12 mediations in 2 years);

Certified Mediator/Level 4

- Undertake 20 mediations in 3 years
- Submit a Feedback Digest prepared by an independent Reviewer
- Undergo an assessment by a QAP

## (II) SIMI Certified Mediators (CMs)

A. All levels (not just CMs) must comply with a **Code of Conduct** (SIMI's Code or other codes possible); key principles to be followed :

- **Independence, impartiality**

- **Best practices** during mediation process, e.g. equal opportunity for parties to be heard; settlement must be voluntarily agreed to by the parties; maintain confidentiality always (subject to exceptions), etc

B. SG : CMs can apply to court to **record mediation settlement as court order** - S.12(3)(a), Mediation Act.

--> Allows court to enforce mediation settlements as a judgement

--> Potential to enforce such judgements in other countries, pursuant to the SG Convention on Mediation Act (like NY Convention)

## What is the **value proposition** of a SIMI-accredited mediator ?

- **Independent mark of quality**, issued by a non-profit organisation supported by the Ministry of Law
- **Assurance** to disputants/users : SIMI-accredited mediators are professionals that can facilitate the efficient and effective resolution of disputes

How ? **Clear benchmarks** which can be held out by mediators :

- Baseline competency assessed by **SIMI Registered Training Providers**;
- Competence levelled up through experience (reflected by credentialing ladder)
- Professional practice standards - must follow a **Code of Conduct** (*sets out skills and behaviours to be demonstrated*)



## Broad analogy : *Testing services for electrical goods* & *Singapore Safety Mark*



Conditions for manufacturer/importer of controlled electrical goods to market such goods in SG :

- Be a “Registered Supplier”
- Obtain certification report from a “Conformity Assessment Body” which tested safety of goods
- Safety Mark : assures public of the safety of an electrical appliance.

**SIMI’s work :**

To achieve similar effect through industry self-regulation.

# Snapshot of the SIMI register

## Aug 2024

SIMI-Accredited  
Mediators  
593

122 Certified  
Mediators



SIMI Registered Svc  
Providers  
13

Cross-border mediation  
possibilities - 6



### (III) Supporting industry development

1. Creating possibilities/opportunities for mediators (incl to operate in other countries) :
  - Efforts at **cross-recognition** (of mediators) between SIMI and other accreditation bodies, e.g. IMI.
  - Outreach to industries (and mediators) with other stakeholders (e.g. SIMC) : inform businesses how mediators are **professionals**; how mediation is a **professional process**.



2. Younger/inexperienced mediators : **Pilot Mentorship Program** – SIMI Certified Mediators to bring junior mediators to observe mediations, to help give mediation talks, etc.

THANK YOU FOR YOUR VISIT !