Journal of Emerging Legal Studies
Vol. 1 No. 1, pp. 42-57 | October 2026
DOI: https://doi.org/10.24191/jels.v1i1.1004

Professionalising Sulh in Malaysian Syariah Courts: Competency, Ethics and Governance

Hammad Mohamad Dahalan[1]*, Mustafa 'Afifi Ab. Halim[2], Ahmad Mukhlis Mansor[3], Umamuddin Yunus[4]

[1]Faculty of Law, Universiti Teknologi MARA, Malaysia
[2]Faculty of Syariah and Law, Universiti Sains Islam Malaysia, Malaysia
[3]Mahkamah Syariah Wilayah Persekutuan, Malaysia
[4]Jabatan Kehakiman Syariah Selangor, Malaysia
Email: [1]hammad@uitm.edu.my, [2]afifi@usim.edu.my, [3]mukhlismansor@esyariah.gov.my, [4]umam.yunus@esyariah.gov.my

* Corresponding author

ARTICLE INFO

Article history:
Received : 25 September 2026
Accepted : 21 October 2026
Published : 30 October 2026

Keywords:
Sulh
Professional Competence
Mediation Ethics
Syariah Courts
Institutional Governance

Cite as:
Mohamad Dahalan, H., Ab. Halim, M. 'A., Mansor, A. M., & Yunus, U. (2026). Professionalising sulh in Malaysian Syariah courts: Competency, ethics and governance. *Journal of Emerging Legal Studies, 1*(1), 43–57. https://doi.org/10.24191/jels.v1i1.1004

ABSTRACT

Court-connected Sulh, a facilitated process of amicable settlement, depends on the ability of officers to facilitate informed agreement while respecting the legal limits of settlement. Professional training is therefore necessary, but its value also depends on the institutional arrangements through which competence is assessed, ethical duties are implemented and expertise is retained. This article examines how these elements can be connected within the governance of Sulh in Malaysian Syariah courts. It adopts a doctrinal and normative approach, drawing on selected legal provisions reproduced by the Federal Territories Syariah Court, published institutional materials, Sulh scholarship, international mediation standards and organisational research on knowledge transfer. The analysis distinguishes legal authority to conduct Sulh from training certification and demonstrated professional competence. It also distinguishes existing ethical standards from the organisational mechanisms needed to support their application. The article proposes a proportionate professionalisation approach, scaled to case risks and institutional resources within existing lawful authority, comprising assessed entry preparation, supervised practice, continuing development, ethical review and institutional learning. Career progression and reassignment are considered as occasions for preserving access to experienced officers through mentoring, specialist casework and training, subject to institutional needs and applicable appointment arrangements. These proposals are not presented as findings of nationwide non-compliance or as a validated accreditation model. The central argument is that professionalisation should strengthen accountable discretion, meaning reasoned facilitative choices subject to consent, ethical duties and supervision, within existing court structures rather than create an additional credentialing requirement detached from practice.

1. INTRODUCTION

Sulh, an Arabic term referring to amicable settlement, is used here for a court-connected process in which a neutral officer helps disputing parties negotiate a mutually acceptable agreement without deciding the dispute (Mahkamah Syariah Wilayah Persekutuan [MSWP], n.d.-b). Sulh places a demanding responsibility on the officer who conducts it. The officer must help parties negotiate without deciding the dispute for them, explain the process without becoming counsel for either side, and encourage agreement without making settlement an obligation. In a court setting, these distinctions matter because parties encounter Sulh as part of an institution that also possesses adjudicative authority. An invitation to reconsider a position may be understood as a direction, particularly by a party unfamiliar with court procedure. Professional competence consequently concerns the disciplined use of authority as much as proficiency in negotiation.

The Federal Territories Syariah Court identifies section 99 of the Syariah Court Civil Procedure (Federal Territories) Act 1998 as the statutory basis for Sulh and section 131 as the provision concerning consent judgments. The former permits parties to resort to Sulh during proceedings under the applicable rules or, in their absence, Hukum Syarak; the latter permits the court to record a judgment founded on agreement, including Sulh (MSWP, n.d.-b). These provisions distinguish consensual resolution from its judicial recording. An officer's effectiveness cannot therefore be assessed solely by whether the parties sign an agreement. The quality of their participation and the suitability of the proposed terms also require attention.

Pegawai Sulh is the official Malay designation for the court officer conducting this process, as reflected in Malaysian court materials and applicable Sulh rules. This article uses "Sulh officer" as its English equivalent; the officer's appointment and powers remain governed by the applicable jurisdiction's law and administrative arrangements. Mediator is used for comparative mediation practice or when discussing the terminology of cited scholarship, rather than as a separate Malaysian court appointment (Jabatan Kehakiman Syariah Negeri Pulau Pinang, n.d.; MSWP, n.d.-b).

Existing scholarship provides substantial reasons to invest in officers' professional development. Ramli et al. (2022a) examine competence and performance among female Sulh officers, while Ismail et al. (2025) address the skills, knowledge and personal attributes relevant to managing mediation. Institutional initiatives also demonstrate that professional preparation is already receiving attention. Universiti Sains Islam Malaysia (USIM) reports that its collaboration with Jabatan Kehakiman Syariah Malaysia (JKSM) includes assessed training in Sulh-Mediation (Universiti Sains Islam Malaysia [USIM], 2023). The starting point of reform is thus neither an absence of expertise nor an absence of training. It is the question of how the available elements can operate as a coherent system of professional responsibility.

This article asks three connected questions. What should distinguish competence to conduct court-connected Sulh from the possession of a training certificate? How should ethical requirements be supported through supervision and institutional accountability? What arrangements can sustain professional expertise as officers develop their careers? The argument is that these questions should be considered together. Increasing the supply of trained officers without attending to assessment, working conditions and continuity of expertise would address only part of the institutional task. The article's original contribution lies in integrating competency assessment, ethical accountability and institutional knowledge retention into a single governance approach for court-connected Sulh.

The contribution is deliberately bounded. The article develops a normative approach to professionalisation rather than measuring the performance of Malaysian Syariah courts or proposing a new statutory profession. Its focus is court-connected Sulh, particularly family-related civil disputes. Community mediation and private mediation may provide useful experience, but their qualifications and procedures cannot automatically be treated as equivalent to authority within a court. Digital practice appears only where it creates a particular competence or ethical issue. It is not the organising theme of the article.

"Proportionate professionalisation" means strengthening assessed competence, supervision, continuing development and ethical review to the extent justified by the officer's tasks, case risks and available institutional resources. It builds on existing court arrangements, recognises equivalent preparation and avoids duplicating effective mechanisms. It does not create a separate statutory

licensing body or confer authority through a training certificate. “Accountable discretion” means the officer’s reasoned choice among lawful facilitative responses, including adapting communication, pausing a session or making a referral, subject to ethical duties and appropriate supervision. Its boundaries are the parties’ informed consent, applicable procedural law and confidentiality: the officer may neither impose a settlement nor exercise the court’s adjudicative powers. Review should examine the reasons for professional choices without requiring unnecessary disclosure of confidential negotiations.

2. LITERATURE REVIEW

2.1 Legal Foundations and Institutional Development

The professionalisation question builds on an established literature rather than an absence of research on Sulh. Ahmad and Abdul Hak (2010) examine the Selangor legislative framework, procedural arrangements and officers’ qualifications. Their account places professional practice within a jurisdiction-specific legal structure. Oseni (2015), in a comparative literature review concerning Nigeria, Malaysia and Singapore, considers court-annexed dispute resolution as part of judicial reform. Read together, these studies establish a reason to examine institutional arrangements alongside individual skills. They do not, however, supply a current nationwide assessment of Malaysian officers or a common standard for assessing their competence.

The Islamic legal literature also requires care in defining the professional role. Cusairi and Zahraa (2015) analyse the qualifications of the mediator-arbitrator through the jurisprudence of tahkim (arbitration, in which an appointed arbitrator determines a dispute within the scope of the applicable authority). Their treatment is relevant to the relationship between personal suitability, legal knowledge and responsibility in family dispute resolution. It should not be used to collapse contemporary court-connected Sulh into arbitration. Qualifications discussed within a med-arb framework must be distinguished from the powers and responsibilities of a facilitator operating under Malaysian court procedures. The present article therefore uses this scholarship to clarify the need for role-specific standards, not to attribute arbitral authority to every Sulh officer.

Specialised judicial arrangements provide a further institutional perspective. Abdul Hak et al. (2020) examine the legislative foundations of child-custody Sulh and its relationship with the Special Court of Hadhanah in the Federal Territories. Mansor (2025) develops an account of the legal framework and implementation of custody mediation using documentary research and interviews with officers. These contributions connect settlement practice with court organisation and the protection of children. For professionalisation, their implication is that the relevant unit of analysis is not simply the individual mediator: it also includes referral arrangements, the category of dispute and the court’s treatment of the resulting agreement.

2.2 Competence and Professional Judgment

Ramli et al. (2022a) connect the knowledge and experience of female Sulh officers with the conduct of civil cases and examine differences associated with service experience. Their study helps establish why preparation for Sulh requires attention to practice rather than legal education alone. However, an assessment of officers’ attributes does not by itself establish the organisational arrangements through which competence should be maintained. The institutional question concerns who assess practice, on what evidence, and what follows when an officer needs further support.

Ismail et al. (2025) identify facilitation, legal knowledge and personal qualities as important dimensions of competence. Their qualitative study draws on interviews with five serving officers. It provides a useful account of experienced practitioners’ understandings, but the small purposive sample does not establish national prevalence or a causal relationship between a particular qualification and settlement outcomes. Its relevance here lies in identifying areas that a practice-based assessment could examine. Translating these areas into appointment or renewal requirements would require a separate process of validation and consultation.

The distinction between a competency description and an assessment standard is consequential. A statement that an officer should communicate effectively leaves several questions unanswered. Does

effective communication include explaining the limits of confidentiality, recognising an apparent misunderstanding, or checking whether a party understands the proposed agreement? Different assessors may reach different conclusions unless the expected conduct is specified. The present article therefore treats competence as the capacity to make and justify appropriate decisions in context, demonstrated through observable practice and supported by legal knowledge.

Ramli et al. (2022b) also examine women officers' roles and competencies through officers' and judges' perspectives. Their discussion includes training, service experience and institutional conditions. This publication and the authors' Malay-language study should not automatically be counted as two independent confirmations of the same proposition: the research team and subject matter overlap, and the relationship between their underlying datasets requires attention. Their contribution here is to identify concrete dimensions of professional preparation, while avoiding an inflated impression of the breadth of independent empirical evidence.

Cusairi and Nordin (2025) bring a more specific dimension into view through their proposed framework of mediation language for Syariah court mediators. Their analysis of Sulh manuals addresses how language can support negotiation and reframe negative expressions without changing the parties' intended meanings. This proceedings contribution is useful for specifying communication skills, although the proposed framework should not be treated as an independently validated measure of mediation success. Its significance for assessment is practical: an officer's use of questions, summaries and reframing can be examined directly, rather than inferred from a general claim of good communication.

Ab Halim et al. (2023) discuss mediation in halal-related disputes. Although their study, Mediation in Cases of Halal Abuse: A Consumer's Perspective, addresses consumer disputes rather than family matters before the Syariah Courts, it demonstrates the wider capacity of mediation to resolve disputes involving religious values, public confidence, and specialised legal knowledge. Its emphasis on mediator competence, consumer awareness, and appropriate dispute-resolution mechanisms provides a useful comparative foundation for examining Sulh practice. In the Syariah Court context, these concerns translate into the need for professionally trained *Pegawai Sulh*, clear ethical standards, and institutional governance capable of safeguarding the integrity, consistency, and effectiveness of the Sulh process.

2.3 Institutional Practice and Differentiated Safeguards

Abd Rahman Shah et al. (2025) examine mediation in the Syariah and civil courts through a comparative account of processes, jurisdiction and practical challenges. Their analysis supports attention to institutional context: mediation techniques may be transferable, but the authority and procedures through which they operate differ. A court cannot adopt a training provider's description of good practice as though it were a substitute for applicable procedural law. Conversely, compliance with formal procedure does not establish that an officer has facilitated a fair negotiation.

The study of children's participation by Mansor et al. (2024) illustrates the demands of specialised practice. It examines how children's views are obtained in custody mediation and calls for clearer procedural guidance. Its relevance extends beyond the particular question of participation. A general capacity to mediate between adults does not necessarily equip an officer to engage a child without creating pressure, confusion or divided loyalties. Professionalisation must leave room for task-specific competence and appropriate referral. It should not assume that every trained officer is immediately suitable for every category of case.

Earlier work on online Sulh addresses changes in the mode of delivery. Abd Rahman Shah et al. (2022) consider the legal and practical prospects and challenges of conducting Sulh through online communication. That work supplies a useful example of why competence needs periodic revision. A method that is adequate in a controlled physical setting may need adjustment when privacy, participation and the presence of third parties are harder to establish remotely. The concern in this article is continuing professional readiness, rather than a separate proposal to digitise Sulh.

Nasir et al. (2018) introduce an important qualification to favourable accounts of family mediation. Their doctrinal discussion of disputes involving violence calls for screening and improved guidance. It supports attention to suitability before negotiation begins, but does not establish the

prevalence of violence among Sulh users or prove that a particular screening method is effective. The issue for professional competence is the ability to recognise when ordinary assumptions about voluntary participation may be unsafe and to identify an appropriate institutional response.

2.4 Ethical Guidance and the Assessment of Professional Practice

International mediation scholarship provides a useful analytical comparison, provided it is not presented as law applicable to Malaysian Syariah courts. Shapira (2016) critically assesses the 2005 Model Standards of Conduct for Mediators, including the difficulty of guiding practitioners when ethical values compete or provisions remain vague. This raises a question also relevant to Sulh: how should an officer reason through a difficult situation when reciting a general principle is insufficient? The comparison supports explanatory guidance and opportunities for ethical consultation. It does not demonstrate that the Malaysian code has the same textual shortcomings as the standards Shapira evaluates.

Professional standards distinguish preparation for practice from recognition of experienced practice. The International Mediation Institute (IMI, n.d.-a) describes its Qualified pathway in terms of completion of a recognised training programme. Its standards for Certified mediators require substantial experience and performance assessment, alongside knowledge, and also address the integrity and monitoring of assessment programmes (IMI, n.d.-b). These are private international standards, not Malaysian appointment requirements. Their relevance is the distinction between the evidence supplied by training and the evidence needed to assess a practising mediator; neither label, by itself, establishes authority to conduct Sulh in a court.

The European Commission for the Efficiency of Justice (CEPEJ, 2019) offers a complementary institutional perspective. Its guidelines, developed jointly with IMI, connect training content to a competency framework, practical assessment, feedback and subsequent professional development. They also recommend supervision and mentoring after training. This is a useful comparator for designing a coherent learning pathway, while its European setting and non-binding status in Malaysia limit direct transplantation. The point is to examine which functions are useful and legally compatible, not to import an entire accreditation system.

2.5 Knowledge Transfer and Continuity of Expertise

Organisational research helps explain why training new officers and retaining access to experienced officers are related but distinct tasks. Argote (2024) reviews variation in knowledge transfer, identifying the importance of opportunities, mechanisms, motivation and how knowledge is considered by recipients. Experience held by one officer does not automatically become a resource available to colleagues. Applying this insight to Sulh suggests that professional development needs arrangements through which practical reasoning can be discussed and learned, subject to confidentiality. This is an analytical application of organisational scholarship, not an empirical finding about Malaysian court personnel.

Argote et al. (2022) distinguish mechanisms including personnel mobility, social networks, routines and organisational design. Their framework cautions against equating every reassignment with knowledge loss: movement can also facilitate transfer where relationships and working arrangements support it. For Sulh, the relevant question is whether an experienced officer's knowledge remains accessible and usable after responsibilities change. A mentoring role or specialist consultation arrangement may preserve that contribution without requiring the officer to retain the same caseload. The effectiveness of such arrangements would still require local evaluation.

2.6 The Institutional Connection

Earlier Malaysian writing has already placed the officer and the resulting agreement at the centre of Sulh scholarship. Dahalan's (2014) work addresses the role, implementation and effectiveness of Sulh officers, while Dahalan and Yahya (2016) examine whether agreements between disputing parties are optional or must be honoured. These two strands identify a useful connection for the present inquiry: professional preparation must be considered alongside the legal significance of the agreement that officers help parties formulate. The present article develops that connection through assessment, ethical support and continuity of expertise.

Taken together, the selected literature identifies important features of good practice and areas requiring procedural attention. The present analysis connects these questions to the administration of professional responsibility. It does not claim that previous scholarship has ignored governance or that a comprehensive systematic review has established an unoccupied field. Its narrower proposition is that training, ethical accountability and the retention of expertise warrant joint treatment in the design of a court service.

Professionalisation is used here to describe the sustained development and accountable exercise of specialist competence. It does not imply that serving officers are currently unprofessional. Nor does it necessarily require a separate licensing body. A proportionate approach might strengthen arrangements already available within the courts, supported by training partnerships and inter-institutional coordination. The appropriate institutional form should follow an examination of existing responsibilities and gaps, rather than precede it.

3. METHODOLOGY

The article employs a doctrinal and normative legal approach using selected publicly accessible sources. The doctrinal component examines the relationship between the authority to use Sulh, the facilitative role of the officer and the judicial treatment of agreement. It relies on the statutory provisions reproduced on the official MSWP portal and distinguishes those provisions from administrative guidance and descriptions of institutional practice. The analysis does not purport to consolidate all current state enactments, rules and practice directions governing Sulh.

The documentary component draws on official publications concerning Sulh procedures, ethical standards and professional training. These sources serve different evidential purposes. A court's published guidance establishes what the institution communicates about its service. An official listing of a practice direction establishes the identity and subject of that instrument, but does not alone demonstrate how every court applies it. A university's account of a training programme establishes that the described initiative occurred; it cannot establish its comparative effectiveness or the subsequent performance of participants. This distinction is maintained throughout the article.

Relevant scholarship was selected for its treatment of legal foundations, officers' competence, ethical guidance, family-dispute safeguards and institutional development. Targeted web searches used combinations of Sulh, mediation, competency, ethics, governance, training, knowledge transfer and their Malay equivalents. Searches were supplemented by following relevant references to publisher and institutional records. International assessment standards and organisational scholarship were included where they helped explain a specific proposed mechanism. Bibliographical details and accessible source content were checked through publisher pages, official publications and institutional repositories. Where only an abstract was available, its use was confined to the stated scope or findings; detailed procedural propositions were drawn from accessible documents. The selection was expanded in September 2026. This is a focused literature-based analysis, not a systematic review or bibliometric study. It makes no claim to exhaustive coverage. No interviews, participant observations, confidential case files, personnel records or unpublished programme evaluations were collected for this article.

International materials are treated as comparative guidance rather than binding Malaysian standards. Studies by overlapping author teams are not assumed to represent independent datasets. Legal commentary is distinguished from the legislation itself, and older studies are used for historical or conceptual analysis rather than as evidence of present nationwide practice.

The normative analysis proceeds through three questions applied to each proposed measure: what professional responsibility is being protected, which institutional actor could reasonably discharge it, and what evidence would permit its implementation to be evaluated? Recommendations are assessed against voluntariness, lawful authority, proportionality and administrative feasibility. The resulting professionalisation approach is an analytical proposal for consultation. It has not been empirically validated, and the article does not infer deficiencies in an institution merely because a particular internal procedure is not publicly available.

4. FINDINGS AND DISCUSSION

4.1 Legal Authority and Professional Qualification

The distinction between statutory authority and professional preparation should govern any reform. Training can equip a person to mediate, but a certificate cannot by itself confer a court appointment, enlarge jurisdiction or authorise the exercise of a judicial function. These matters depend on applicable law and institutional arrangements. Likewise, the authority to occupy a post is not, on its own, a sufficient account of the practical capabilities needed to perform every task associated with that post. Professionalisation should connect these two dimensions without confusing them.

Three questions should therefore be addressed separately when designing professional requirements. First, is the officer properly authorised to conduct the relevant proceeding? Second, has the officer demonstrated the required competence? Third, does the institution provide the conditions necessary to exercise that competence? The third question is often less visible in discussions of credentials. Access to a suitable room, time to prepare, a reliable referral procedure and professional supervision can affect what an otherwise capable officer is able to do. An assessment system that examines only the individual risks attributing organisational difficulties to personal shortcomings.

Court-connected Sulh also requires a clear boundary between assisting negotiation and determining the merits. An officer may need to help parties identify what they disagree about and understand the implications of a proposal. That function does not make the officer the legal representative of either party or the judge of the dispute. A professionally designed service should make the distinction intelligible to users, including those who attend without legal representation. The institution should avoid language that makes referral to Sulh appear to predetermine the desirability of settlement in every case.

A common professional baseline should respect the applicable jurisdictional arrangements. The proposed approach does not assume that a single administrative body can amend all state procedures through a general policy document. Existing instruments need to be identified and their local applicability established. The official MSWP listing includes Practice Direction No. 7 of 2015 concerning standardisation of Sulh work processes and flowcharts (MSWP, n.d.-a). This is a reason to begin by mapping existing arrangements, rather than describing standardisation as an entirely new endeavour. Any additional requirements should be adopted through the appropriate legal or administrative route.

A shared competency baseline should therefore be developed through consultation and adoption within each jurisdiction. JKSM could facilitate agreement on core learning outcomes, assessment criteria and assessor preparation, building on its published coordination role and its collection of state Sulh instruments for officers' reference (Jabatan Kehakiman Syariah Malaysia [JKSM], n.d.). Participating State Syariah Judiciary Departments (JKSN) and courts would assess the proposed baseline against the applicable enactments, rules, appointment requirements and resources. Each measure would then be submitted to the authority competent to approve it. Consultation should include the State Islamic Religious Council (MAIN) where its statutory responsibilities are engaged, while recognising that the respective powers of MAIN, JKSN and JKSM depend on the applicable legal and administrative arrangements.

For example, participating jurisdictions could agree that an officer should demonstrate the ability to explain the voluntary nature of settlement and recognise when further referral is necessary. Implementation would remain subject to the applicable state laws and service arrangements. Common assessor training and moderation of anonymised simulations could improve consistency while preserving the powers of the authorities responsible for appointments, discipline and court rules. Adoption could begin through an authorised administrative pilot where existing powers permit. Any measure requiring amendments to binding rules would follow the applicable legal process. The shared benchmark would not, by itself, amend existing legal requirements or confer authority to conduct Sulh in another jurisdiction.

4.2 Demonstrating Competence beyond Course Attendance

The proposed assessment approach draws on the competency and feedback principles in CEPEJ (2019) and the distinction between knowledge and performance in IMI (n.d.-b). Neither source

establishes the assessment requirements currently applicable to Malaysian Sulh officers. Their value is to make explicit what a local assessment would need to demonstrate. Training should prepare an officer to recognise situations requiring judgment, rather than simply reproduce the stages of a model session. A useful assessment would include an explanation of the process, identification of disputed issues, management of communication and examination of proposed terms. It should also test whether the officer knows when to pause or end the process. A candidate who can conduct an orderly discussion but cannot recognise an apparent absence of voluntary consent has not demonstrated the full competence required for court-connected Sulh.

Assessment scenarios should expose candidates to realistic difficulty. One party might repeatedly defer to the other while privately expressing reservations. Another might agree to a payment schedule without understanding its practical implications. A property-related dispute might involve interests that cannot be resolved by agreement between the attending parties alone. These are hypothetical assessment examples, not findings about existing cases. Their purpose is to make professional judgment observable: the assessor should examine the officer's response and reasons, rather than reward a simulated agreement irrespective of how it was achieved.

The USIM–JKSM training initiative provides an institutional example of structured preparation. USIM's account of the programme describes a forty-hour attendance requirement and assessment against stipulated standards (USIM, 2023). This demonstrates an existing connection between instruction and assessment. It should not be read as proof that one duration is sufficient for every appointment, that the programme is a statutory licence, or that its graduates may automatically conduct court-connected Sulh. The significance is the possibility of linking assessed training to a wider system of supervised practice and continuing review.

A proposed progression would begin with assessed preparation, followed by supported casework and a reasoned determination of readiness for independent practice. For experienced officers, recognition of prior learning could avoid needless repetition. It should nevertheless involve evidence of current competence rather than rely exclusively on length of service. The institution might use structured reflection, assessed simulations and appropriately authorised observation. Routine recording of confidential sessions should not be introduced merely because it is convenient for assessment.

Common assessment criteria would also help providers and courts identify what a qualification actually represents. Course attendance, successful completion of an assessment and readiness for a particular role should be described distinctly. An institution could then recognise comparable preparation from different providers without granting one programme an automatic monopoly. This would preserve the benefit of university–court collaboration while retaining responsibility for appointments and practice standards within the proper institutional structure.

4.3 Ethical Standards and Supported Decision Making

Reform should acknowledge the ethical framework already in existence. The Penang Syariah Judiciary publishes a Code of Ethics for Sulh Officers that includes expectations concerning impartial conduct, personal interests and fitness to conduct a session (Jabatan Kehakiman Syariah Negeri Pulau Pinang, n.d.). The appropriate question is therefore how ethical duties are explained, supported and reviewed in practice. The presence of a published code does not prove uniform implementation, but neither does limit public information justify an assertion that ethical regulation is absent.

Impartiality should be translated into decisions that an officer can defend. Allowing equal speaking time may be useful, yet formal symmetry will not always produce a fair opportunity to participate. An officer may need to clarify language, allow additional time or arrange an appropriate accommodation. Such action should be directed towards meaningful participation, not favouring a preferred substantive outcome. The reasons should be capable of professional explanation without disclosing the protected substance of negotiations unnecessarily.

Voluntariness similarly requires more than a signature. The officer should be able to identify indications that a party has not understood the terms or feels unable to disagree. Relevant responses might include clarification, a pause for advice, separate discussion where permitted, or referral back to the appropriate court process. These are proposed professional safeguards, subject to the applicable rules. They do not imply an unrestricted power to alter procedure. The key institutional task is to equip

officers with a lawful response when a concern arises, rather than leave them to choose between obtaining agreement and appearing unsuccessful.

Shapira's (2016) analysis also supports distinguishing possession of an ethical code from the quality of guidance it provides in difficult cases. In the proposed Sulh approach, short hypothetical scenarios could be used to discuss tensions between impartiality, participation and appropriate intervention. This would supplement the applicable code, not replace it or imply an established deficiency in its enforcement.

Confidentiality requires a workable distinction between information needed to administer a case and information disclosed during negotiations. Supervisors need enough information to assess professional conduct, but access should not be unlimited. A proposed supervision protocol should specify what may be shared, with whom, for what purpose and under which authority. An officer should not promise absolute confidentiality without explaining any applicable limits. Equally, anonymisation alone should not be assumed to authorise the use of case material for training or publication.

Conflicts of interest call for a clear procedure for disclosure and reassignment. An officer who identifies a relevant personal connection should know where to obtain a decision and how the concern will be recorded. Users should receive a comprehensible explanation of the process for raising a concern. Institutional guidance should distinguish the existence of a possible conflict from a finding of misconduct. This protects the parties while ensuring that prudent disclosure does not become a disincentive to transparency.

Ethical accountability also requires a proportionate distinction between developmental supervision and disciplinary investigation. An officer should be able to discuss a difficult judgment with a mentor without every uncertainty being treated as wrongdoing. Allegations of coercion, improper disclosure or personal interest nevertheless require an appropriate formal route. Separating these functions would support professional learning while preserving accountability. Any new route must be coordinated with existing complaint and service procedures so that users are not passed between overlapping systems.

4.4 Specialised Practice and the Limits of General Competence

Professionalisation should recognise that different disputes present different risks. In a custody matter, a general commitment to hear the parties may be insufficient when the proposed arrangement affects a child who is not an ordinary negotiating party. Mansor et al. (2024) identify procedural questions surrounding children's participation in Sulh and propose clearer guidance. For present purposes, the implication is that role-specific preparation is necessary before an officer undertakes a child-inclusive process. General certification should not be treated as authorisation to interview children in every case.

The screening concern raised by Nasir et al. (2018) should form part of such preparation. A disclosure of violence or an indication of intimidation should trigger a suitable review of safety and meaningful consent, rather than an automatic attempt to improve bargaining technique. Any resulting referral or decision about continuation must follow applicable procedures and available protective arrangements. This recommendation does not presume that all cases involving violence are procedurally identical.

A service could develop referral arrangements for matters requiring additional expertise, subject to resources and legal authority. An officer might identify the need for legal advice, safeguarding assistance or a more experienced practitioner. The decision to refer should be understood as professional judgment rather than failure to complete the assigned task. Institutions should make the available routes clear and account for the time needed to use them. A referral policy with no accessible receiving service would offer only nominal protection. Online participation provides another example. A professionally prepared officer should be able to recognise when the setting prevents a participant from speaking freely or when a technical interruption compromises understanding. The response may be to change the mode of participation or adjourn, where procedure permits. The earlier literature on online Sulh supplies the context for these concerns (Abd Rahman Shah et al., 2022). IMI's online mediation standards separately address knowledge and performance-based assessment for remote practice (IMI, n.d.-c). They reinforce the case for assessing the additional skills a delivery mode requires, without establishing their legal applicability to Sulh. The proposal here is modest: continuing development should respond to the

methods officers actually use, rather than create a separate technological qualification disconnected from their work.

4.5 Supervision and Proportionate Evaluation

Supervision should help institutions understand the quality of practice without converting negotiation into a script. A checklist can confirm that an explanation was given, but it cannot alone establish whether the party understood it. Professional review should therefore combine process indicators with a reasoned account of difficult decisions. It might ask whether the officer identified a concern, considered an appropriate response and remained within the limits of the role. This approach is more informative than assessing performance through the presence of documents alone.

Settlement rates remain useful for describing service activity. They are insufficient as a complete measure of professional quality. A careful officer may properly conclude that further negotiation is inappropriate; another may facilitate agreement in a straightforward matter with relatively little intervention. Treating these outcomes as direct measures of individual ability would ignore differences in case complexity and the parties' circumstances. An evaluation system should distinguish full agreement, partial agreement, non-attendance and termination for identified process concerns before drawing conclusions about performance.

Post-settlement information could also contribute to institutional learning, but its interpretation requires restraint. A subsequent application for enforcement may reflect an unclear agreement, changed circumstances or a party's unwillingness to comply. It does not necessarily establish defective mediation. Where lawful and feasible, follow-up information could help identify recurring drafting or explanation problems. It should be considered alongside case context and should not become an automatic penalty for the officer concerned. This article proposes such evaluation as a future exercise; it does not report longitudinal outcome data.

CEPEJ's (2018) Mediation Development Toolkit includes tools for monitoring mediation schemes and eliciting users' views. It illustrates that service evaluation can be designed as part of implementation rather than added only after problems arise. These tools would require adaptation to court users' language, accessibility needs and the applicable rules on information handling.

User feedback should ask about matters that users can reasonably assess. Questions about whether they understood the process, felt able to express a view and knew what would happen next may be more informative than a single satisfaction score. Satisfaction with the substantive terms may depend on factors beyond the officer's control. Feedback collection should also make clear that a response will not prejudice the person's case. Without that assurance, apparent approval may reveal little about the quality of participation.

An institutional review process should connect identified problems to an appropriate response. A recurring uncertainty about a form might require revised guidance; a difficult communication task might require targeted training; an allegation of coercion might require a formal investigation. The response should follow the nature of the concern. Publishing aggregate service-learning themes could improve transparency, provided confidentiality and lawful restrictions are respected. The objective is to demonstrate how the institution improves its service, not to expose individual negotiations to public scrutiny.

4.6 Career Development and Retention of Institutional Expertise

Professional development should extend beyond preparation for the first appointment. Institutions invest in experience through supervised work, exposure to difficult disputes and participation in specialist training. It is therefore reasonable to consider how that expertise can remain available as an officer's responsibilities change. This is an institutional design question, not an assertion that promotion or reassignment currently produces a uniform loss of expertise across Malaysian courts. Establishing the frequency and effects of such changes would require personnel and deployment data that this article does not possess.

The knowledge-transfer literature provides a basis for addressing this issue without assuming that personnel movement is inherently harmful (Argote, 2024; Argote et al., 2022). Continuity depends on opportunities to share and apply expertise, as well as the willingness and capacity of colleagues to learn.

For example, an authorised mentoring arrangement could preserve access to an officer's reasoning even where the officer no longer conducts routine sessions.

Subject to institutional needs, lawful appointment arrangements and workload, experienced officers could continue contributing through mentoring, advanced training, assessment or selected specialist casework. Career progression need not require permanent separation from every aspect of Sulh practice. Equally, officers should not be expected to retain an unchanged caseload while assuming substantial new responsibilities. A credible proposal must recognise time, authority and responsibility explicitly. Continuing involvement that depends entirely on informal goodwill would be difficult to sustain and potentially unfair to the officer.

Mentoring should preserve sound professional judgment rather than merely reproduce established habits. An experienced practitioner might assist a newer officer to analyse a difficult hypothetical case, review an authorised anonymised learning example or prepare for an assessed simulation. The mentor should explain why a response is appropriate and remain open to revised law and practice. Seniority alone does not make every technique suitable for transmission. Mentoring arrangements should themselves be supported by guidance and periodic review.

Institutions might also maintain a record of specialist expertise, subject to proper access controls. This could identify officers with relevant training, assessment experience or competence in particular types of disputes. Its purpose would be deployment and succession planning, not the creation of a public ranking. When responsibilities change, the record could help identify proportionate ways to retain an officer's contribution. Whether this warrants a distinct specialist career pathway should be considered only after examining existing service arrangements and resource implications.

4.7 Implementation within Existing Institutions

Implementation should begin with a baseline review of existing legal requirements, training arrangements, assessment practices, ethical procedures and supervision. The review should distinguish measures already operating from those that are proposed. It should also identify which authority can approve each change. This guards against unnecessary duplication and prevents the language of reform from obscuring work already undertaken. Institutions should not be required to establish a new structure where an existing mechanism can discharge the function adequately.

A limited pilot would allow practical testing before any wider adoption. Participating courts could select a manageable set of measures, such as common assessment criteria, protected mentoring time and a revised method of collecting user feedback. The pilot should specify its objectives in advance and compare implementation against a documented baseline. Relevant questions include whether assessments produce reasonably consistent decisions, whether supervision identifies actionable issues and whether the additional work is proportionate to available resources. Faster settlement should not be the only test.

Training institutions can contribute curriculum design and assessment expertise, while court administrations determine operational compatibility and applicable authority. Experienced practitioners can test whether a proposed standard makes sense in real proceedings. These contributions are complementary but not interchangeable. IMI's criteria include assessor independence and ongoing monitoring, offering one comparator for managing evaluation conflicts (IMI, n.d.-b). Programme providers should not be the sole judges of their own effectiveness, and institutional affiliation should not be treated as a substitute for evidence. Any evaluation of a programme in which researchers have professional roles should disclose those relationships and use appropriate safeguards against bias.

Cost and access are material concerns. A new mandatory certificate could impose expense on officers or narrow access to eligible candidates without necessarily improving practice. The article therefore favours demonstrable competence and recognition of equivalent preparation over automatic dependence on a single credential. Continuing development should be available in forms compatible with work commitments. If institutions require mentoring or assessment, they should allocate time for it. Professionalisation becomes credible when its requirements can be fulfilled within the conditions of the service.

The anticipated benefit is greater clarity about professional responsibility, not a guaranteed increase in settlement. More consistent assessment may reveal training needs previously unnoticed; a stronger safeguarding process may appropriately reduce the number of matters settled through Sulh. Such results should be interpreted in relation to fair participation and lawful resolution. The proposed approach succeeds only if it helps institutions distinguish justified professional discretion from avoidable inconsistency and respond to each appropriately.

4.8 Proposed Professionalisation Framework

Table 1 consolidates the article's principal recommendations into an implementable professionalisation framework. The components are intended to operate within existing legal and institutional arrangements and remain subject to baseline review, consultation and pilot evaluation.

Table 1: Proposed Professionalisation Framework

Component	Proposed institutional measure
Entry preparation	Assessed training based on defined legal, procedural and facilitative competencies.
Supported practice	Supervised casework followed by a reasoned determination of readiness for independent practice.
Continuing competence	Periodic professional development and proportionate review responding to identified needs and specialised tasks.
Ethical accountability	Clear arrangements for ethical consultation, disclosure, referral, complaints and proportionate investigation.
Retention of expertise	Structured mentoring, advanced training, assessment and selected specialist casework for experienced officers, subject to institutional needs.
Implementation and evaluation	Baseline review, inter-state consultation, jurisdiction-specific approval and adoption, a limited pilot and evaluation using process, participation and service-learning indicators.

Note: The framework is a normative proposal for consultation and pilot evaluation; it is not presented as an existing national accreditation model.
Source: Authors

5. CONCLUSION

The priority is to connect existing training and ethical requirements to an accountable system of practice. Court administrations, working through the appropriate coordinating and appointing arrangements, should first identify their current obligations and mechanisms. On that basis, they can consider a shared professional baseline that distinguishes legal authority, assessed competence and the conditions necessary for practice. This sequence is preferable to introducing an additional credential before its relationship to existing appointments has been established.

Assessment should examine practical judgment, including the ability to recognise circumstances in which settlement should not be pursued. Continuing development should respond to identified needs, with additional preparation for specialised tasks. Ethical standards should be supported through clear disclosure, referral and complaint procedures. Supervision must provide room for learning while retaining an effective route for addressing serious concerns. These measures should be piloted and evaluated before they are represented as a national model.

Career development forms part of this approach. Where compatible with their responsibilities, experienced officers should remain able to contribute through mentoring, training, assessment and specialist work. This recommendation protects the institutional value of expertise without challenging legitimate promotion or reassignment decisions. The recommendation concerns institutional access to expertise rather than particular posts or individual officers.

The limitations of the analysis are significant. It does not establish the extent of variation between jurisdictions, compare programme effectiveness or measure whether experienced officers remain involved after reassignment. Subsequent research should examine these questions using authorised administrative data and a research design appropriate to sensitive court processes. The proposed arrangements also require consultation with officers and service users before practical adoption. Such work would test the proposal rather than merely supply illustrations for a predetermined conclusion.

Professionalising Sulh ultimately concerns the reliability of a public dispute-resolution service. A certificate records a stage of preparation; ethical language states an obligation; experience develops judgment. Institutional governance determines whether these resources remain connected in daily practice. Strengthening that connection offers a defensible direction for reform while preserving the consensual character of Sulh and the authority of the court.

ACKNOWLEDGEMENT
This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

DATA AVAILABILITY
This doctrinal and normative study is based on published legal, institutional and scholarly materials identified in the article and its references. No primary empirical data were collected, and no original dataset was generated. The supporting source materials can be accessed through the cited publications and links, subject to the access conditions of the respective publishers and institutions.

CONFLICT OF INTEREST
The authors declare no conflict of interest.

ETHICS APPROVAL
Not applicable.

USE OF GENERATIVE ARTIFICIAL INTELLIGENCE
Generative artificial intelligence was used to assist with manuscript structuring, drafting, language refinement and source discovery. The authors reviewed and verified the authorities, citations, substantive analysis and final text, and assume full responsibility for the integrity and originality of the manuscript.

AUTHOR CONTRIBUTIONS

Conceptualisation	:	Hammad Mohamad Dahalan
Methodology	:	Hammad Mohamad Dahalan and Mustafa ‘Afifi Ab. Halim
Formal Analysis	:	Hammad Mohamad Dahalan, Mustafa ‘Afifi Ab. Halim, Ahmad Mukhlis Mansor and Umamuddin Yunus
Writing (Original Draft)	:	Hammad Mohamad Dahalan
Writing (Review & Editing)	:	Hammad Mohamad Dahalan, Mustafa ‘Afifi Ab. Halim, Ahmad Mukhlis Mansor and Umamuddin Yunus
Project Administration	:	Hammad Mohamad Dahalan

REFERENCES

Ab Halim, M. A., Rahman, H. A., Yaakob, A., Ali, F. M., Musa, S. C., & Rosley, N. A. (2023). Mediation in cases of halal abuse: A consumer’s perspective. *Revista Brasileira de Alternative Dispute Resolution - Brazilian Journal of Alternative Dispute Resolution - RBADR, 5*(10), 253–267. https://doi.org/10.52028/rbadr.v5i10.ART12.MY

Abd Rahman Shah, H., Ab Halim, M. A., & Mohamad Ali, N. (2025). Mediation and Sulh as an alternative to litigation: A study of the Syariah and civil courts practices in Malaysia. *Darulfunun Ilahiyat, 35*, 99–122. https://doi.org/10.26650/di.2024.35.1562636

Abd Rahman Shah, H., Mohd Ali, N., Che Musa, N., Yaakob, A., & Ab Halim, M. A. (2022). Sulh dan mediasi dalam talian dalam konflik kekeluargaan di Mahkamah Syariah Malaysia: Prospek dan cabaran norma baharu [Online Sulh and mediation in family conflicts in Malaysian Syariah courts: Prospects and challenges of the new normal]. *Ulum Islamiyyah, 34*(3), 1–14. https://doi.org/10.33102/uij.vol34no3.490

Abdul Hak, N., Mansor, A. M., & Che Soh @ Yusoff, R. (2020). Resolution of child custody dispute: Legislative foundation and contemporary application of Sulh in the Shariah Court of Malaysia. *Journal of Islam in Asia, 17*(3), 302–326. https://doi.org/10.31436/jia.v17i3.990

Ahmad, S., & Abdul Hak, N. (2010). Sulh (mediation) in the state of Selangor: An analysis of legal provision and its application. *IIUM Law Journal, 18*(2), 213–237. https://doi.org/10.31436/iiumlj.v18i2.23

Argote, L. (2024). Knowledge transfer within organizations: Mechanisms, motivation, and consideration. *Annual Review of Psychology, 75*, 405–431. https://doi.org/10.1146/annurev-psych-022123-105424

Argote, L., Guo, J., Park, S.-S., & Hahl, O. (2022). The mechanisms and components of knowledge transfer: The virtual special issue on knowledge transfer within organizations. *Organization Science, 33*(3), 1232–1249. https://doi.org/10.1287/orsc.2022.1590

Cusairi, R. M., & Nordin, M. Z. F. (2025). Developing a structured framework of mediation language (MedL) for Syariah court mediators in Malaysia. *CFORSJ Procedia, 3*(1), 303–314. https://alnadwah.usim.edu.my/cforsjprocedia/paper/view/177

Cusairi, R. M., & Zahraa, M. (2015). Conditions and qualifications of a mediator-arbitrator in the resolution of family disputes. *Journal of Islam and Science, 2*(2), 263–284. https://doi.org/10.24252/jis.v2i2.2182

Dahalan, H. M. (2014, November 17–18). *Pengurusan Sulh: Peranan, pelaksanaan dan keberkesanannya oleh Pegawai Sulh* [Sulh management: The role, implementation and effectiveness of Sulh officers] [Paper presentation]. International Research Management and Innovation Conference 2014, Kuala Lumpur, Malaysia. http://rmc.kuis.edu.my/irmic/wp-content/uploads/2014/12/081-PENGURUSAN-SULH.pdf

Dahalan, H. M., & Yahya, M. A. (2016). Perjanjian Sulh di antara pihak-pihak bertikai di Mahkamah Syariah sebagai pilihan atau persetujuan yang perlu dipatuhi? [Sulh agreements between disputing parties in the Syariah Court: An option or an agreement that must be honoured?] In *E-Proceeding of the Muzakarah Fiqh & International Fiqh Conference 2016* (pp. 254–261). Kolej Universiti Islam Antarabangsa Selangor. https://conference.uis.edu.my/mfifc/images/e-proceeding/2016/254-261-mfifc-2016.pdf

European Commission for the Efficiency of Justice. (2018). *Mediation development toolkit: Ensuring implementation of the CEPEJ Guidelines on mediation* (CEPEJ(2018)7REV). Council of Europe. https://rm.coe.int/mediation-development-toolkit-ensuring-implementation-of-the-cepej-gui/16808c3f52

European Commission for the Efficiency of Justice. (2019). *Guidelines on designing and monitoring mediation training schemes* (CEPEJ(2019)8). Council of Europe. https://rm.coe.int/cepej-2019-8-en-guidelines-mediation-training-schemes/168094ef3a

International Mediation Institute. (n.d.-a). *Become IMI qualified*. https://imimediation.org/docs/imi-mediators/certification-pathways/become-imi-qualified/

International Mediation Institute. (n.d.-b). *Minimum standards for IMI certified mediators and criteria for qualifying assessment programs*. https://imimediation.org/wp-content/uploads/2026/07/IMI-Criteria-for-QAP-and-Certified-Mediators.pdf

International Mediation Institute. (n.d.-c). *Online mediation standards: ODR-QAP*. https://imimediation.org/docs/imi-standards-program-recognition/imi-standards/online-mediation-standards-odr-qap/

Ismail, S. H., Abdul Manap, N., & Md Nasir, N. A. (2025). The influence of professional competencies on Sulh officers' performance in managing mediation sessions: Analysis of skills, knowledge, and personality trait. *El-Usrah: Jurnal Hukum Keluarga, 8*(1), 213–235. https://doi.org/10.22373/hvvxq668

Jabatan Kehakiman Syariah Malaysia. (n.d.). *Bahagian pendaftaran, keurusetiaan dan rekod* [Registration, secretariat and records division]. https://www.jksm.gov.my/bahagian-pendaftaran-keurusetiaan-dan-rekod/

Jabatan Kehakiman Syariah Negeri Pulau Pinang. (n.d.). *Kod etika Pegawai Sulh* [Code of ethics for Sulh officers]. https://jksnpp.penang.gov.my/index.php/info/prosedur-mahkamah/53-keps

Mahkamah Syariah Wilayah Persekutuan. (n.d.-a). *Arahan amalan* [Practice directions]. https://www.mswp.gov.my/portal-main/downloads-list?cat=arahan&page=10&per-page=10

Mahkamah Syariah Wilayah Persekutuan. (n.d.-b). *Seksyen Sulh* [Sulh section]. https://www.mswp.gov.my/portal-main/article?id=fungsi-seksyen-sulh

Mansor, A. M. (2025). Legal framework and implementation of mediation in child custody disputes at the Syariah Court of Malaysia. *Darulfunun Ilahiyat, 35*, 123–147. https://doi.org/10.26650/di.2024.35.3.1430075

Mansor, A. M., Abdul Hak, N., & Che Soh @ Yusoff, R. (2024). "Mama papa please hear me": The participation of children in child custody mediation in the Syariah courts of Malaysia. *UUM Journal of Legal Studies, 15*(2), 385–408. https://doi.org/10.32890/uumjls2024.15.2.1

Nasir, N. F. M., Zainol, Z. A., & Suhor, S. (2018). Mediating family disputes involving violence in Malaysia. *International Journal of Asian Social Science, 8*(12), 1120–1129. https://doi.org/10.18488/journal.1.2018.812.1120.1129

Oseni, U. A. (2015). Sharī'ah court-annexed dispute resolution of three commonwealth countries: A literature review. *International Journal of Conflict Management, 26*(2), 214–238. https://doi.org/10.1108/IJCMA-06-2012-0050

Ramli, R., Supaat, D. I., Hashim, H., & Wan Muhammad, R. (2022a). Kompetensi dan prestasi Pegawai Sulh wanita dalam mengendalikan kes mal di Mahkamah Syariah [Competency and performance of female Sulh officers in handling civil cases in Syariah Courts]. *Jurnal Islam dan Masyarakat Kontemporari, 23*(1), 309–322. https://doi.org/10.37231/jimk.2022.23.1.586

Ramli, R., Supaat, D. I., Hashim, H., & Wan Muhammad, R. (2022b). The roles and competencies of women Sulh officers in Malaysian Syariah courts. *International Journal of Academic Research in Business and Social Sciences, 12*(7), 946–958. https://doi.org/10.6007/IJARBSS/v12-i7/14328

Shapira, O. (2016). A critical assessment of the Model Standards of Conduct for Mediators (2005): Call for reform. *Marquette Law Review, 100*(1), 81–134. https://scholarship.law.marquette.edu/mulr/vol100/iss1/3/

Universiti Sains Islam Malaysia. (2023, January 31). *Sijil Kemahiran Sulh–Mediasi gabung kepakaran, pengalaman akademia dan institusi keadilan Syariah* [Sulh–mediation skills certificate brings together expertise and experience from academia and Syariah justice institutions]. https://www.usim.edu.my/ms/berita/sijil-kemahiran-sulh-mediasi-gabung-kepakaran-kemahiran-pengalaman-akademia-dan-institusi-keadilan-syariah/