



El-Usrah: Jurnal Hukum Keluarga
<https://jurnal.ar-raniry.ac.id/index.php/usrah/index>
ISSN: 2549 – 3132 || E-ISSN: 2620-8083
Vol. 8. No. 1. June 2025
DOI: 10.22373/hvvxq668

The Influence of Professional Competencies on Sulh Officers' Performance in Managing Mediation Sessions: Analysis of Skills, Knowledge, and Personality Trait

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Abstract

Competence is an important attribute for *sulh* officers in facilitating successful mediation sessions. The failure of such sessions is often linked to a lack of competence among officers, highlighting the need to identify and understand the specific competencies required. This study aims to analyze the essential competencies that *sulh* officers must possess to effectively conduct mediation. Employing a qualitative research design, data were collected through semi-structured interviews with active *sulh* officers and analyzed thematically. The findings reveal that facilitation skills, particularly proficiency in language use and body language are fundamental to the success of the *sulh* process. Additionally, knowledge on legal frameworks and Islamic legislation is also crucial. In addition, personal attributes such as patience, impartiality, and gentleness also play a significant role in mediation effectiveness. On the other point of view, marital status and academic qualifications were found to have no impact on mediation outcomes. The study also underscores the importance of continuous professional development through courses, seminars, and workshops to enhance the competencies of *sulh* officers. These insights can inform training programs and policy development aimed at strengthening the *sulh* mechanism.

Keywords: Sulh officer, competence, mediation session, sulh, conflict.

Abstrak

Kompetensi merupakan atribut penting bagi petugas sulh dalam memfasilitasi sesi mediasi yang sukses. Kegagalan sesi semacam itu sering dikaitkan dengan kurangnya kompetensi di antara petugas, menyoroti kebutuhan untuk mengidentifikasi dan memahami kompetensi spesifik yang diperlukan. Penelitian ini bertujuan untuk menganalisis kompetensi penting yang harus dimiliki petugas sulh untuk melakukan mediasi secara efektif. Menggunakan desain penelitian kualitatif, data dikumpulkan melalui wawancara semi-terstruktur dengan petugas sulh aktif dan dianalisis secara tematis. Temuan ini mengungkapkan bahwa keterampilan fasilitasi, terutama kemahiran dalam penggunaan bahasa dan bahasa tubuh adalah dasar untuk keberhasilan proses sulh. Selain itu, pengetahuan tentang kerangka hukum dan undang-undang Islam juga penting. Selain itu, atribut pribadi seperti kesabaran, ketidakberpihakan, dan kelembutan juga memainkan peran penting dalam efektivitas mediasi. Pada sudut pandang lain, status perkawinan dan kualifikasi akademik ditemukan tidak berdampak pada hasil mediasi. Studi ini juga menggarisbawahi pentingnya pengembangan profesional yang berkelanjutan melalui kursus, seminar, dan lokakarya untuk meningkatkan kompetensi perwira sulh. Wawasan ini dapat menginformasikan program pelatihan dan pengembangan kebijakan yang bertujuan untuk memperkuat mekanisme sulh.

Kata kunci: *Sulh officer, kompetensi, sesi mediasi, sulh, konflik.*

Introduction

Sulh is one of the initiatives that introduced and implemented in the Syariah Courts in Malaysia. This sulh method was first introduced in the practice of the Syariah Court in Selangor in 2001, where this method prioritizes peaceful and voluntary resolution of disputes. This is because the sulh process involves a guided process that provides an opportunity for conflicting parties to reach mutual agreement and consensus with their own willingness without interference from third parties. The effectiveness of a sulh process greatly depends on the sulh officer responsible for handling the case in addition to cooperation from the parties involved. This is because the level of effectiveness of sulh implementation is often associated with the level of competency and skills of sulh officers as the knowledge and experience gained from sulh officers can influence the proceedings and success of the Sulh Council.¹

The scope of Sulh Officers' duties involves receiving clients with diverse problems and demographic backgrounds. Although Sulh Officers cannot make decisions on behalf of the disputing parties, their ability to help parties reconsider their positions after going through the Sulh session represents their greatest

¹ Ruzita Ramli, Dina Imam Supaat, Hasnizam Hashim & Ramizah Wan Muhammad. 2022. Kompetensi Dan Prestasi Pegawai sulh Wanita Dalam Mengendalikan Kes Mal Di Mahkamah Syariah. *Jurnal Islam dan Masyarakat Kontemporari*. 23(1), p. 309-322.

challenge. Therefore, to maintain professional service quality, Sulh Officers must strive to enhance their competencies to meet professional demands and become the preferred choice for disputing parties to engage in early discussions before cases proceed to court trials.

The competence of *sulh* officers within Malaysia's Syariah courts plays a crucial role in determining the success of dispute resolution efforts. When officers lack the necessary skills and knowledge, it can result in procedural inefficiencies, miscommunication, and unresolved conflicts. These shortcomings undermine the purpose of *sulh* as a viable alternative to formal litigation.

One of the most immediate consequences of having non-competent *sulh* officers in Malaysia's Syariah courts is the delay in dispute settlement. Officers who lack the necessary facilitation skills often struggle to guide parties through effective negotiation processes. This can lead to prolonged mediation sessions that fail to produce resolutions, thereby contributing to a growing backlog of cases within the courts.² Such delays not only hinder the efficiency of the judicial system but also prolong emotional and financial stress for the disputing parties.

Moreover, ineffective mediation frequently results in parties abandoning the *sulh* process altogether and resorting to litigation. This shift undermines the fundamental purpose of *sulh*, which is to provide a peaceful and amicable alternative to formal legal proceedings. When mediation fails due to officer incompetence, the disputants are left with no choice but to pursue their cases through the courts, increasing litigation rates and further burdening the Syariah legal system.³ This trend highlights the critical need for competent *sulh* officers who can uphold the integrity and effectiveness of alternative dispute resolution mechanisms. Thus, a proper analysis on the professional competencies of sulh officers in facilitating effective sulh council sessions is important to be highlighted.

Competency refers to an individual's capacity and ability to perform tasks with optimal results. Competency encompasses characteristics possessed by an individual involving knowledge, behavior, and attitudes that can demonstrate excellent work outcomes.⁴ Competency comes with a set of behavioral requirements needed by managers and staff to execute their duties and responsibilities effectively

² Hak, Nora, Ahmad Mukhlis Mansor, and Roslina Soh. "Resolution of Child Custody Dispute: Legislative Foundation and Contemporary Application of Sulh in the Shariah Court of Malaysia (Mediasi Dalam Menyelesaikan Isu Penjagaan Kanak-Kanak: Asas Perundangan Dan Aplikasi Sulh Oleh Mahkamah Syariah di Malaysia)" 17, no. 3 (2020), p. 150–69.

³ Ruzita Ramli, Dina Imam Supaat, Hasnizam Hashim & Ramizah Wan Muhammad. 2022. Kompetensi Dan Prestasi Pegawai sulh Wanita Dalam Mengendalikan Kes Mal Di Mahkamah Syariah. *Jurnal Islam dan Masyarakat Kontemporari*. 23(1), p. 309-322.

⁴ Ahmad Zainal Abd Aziz. 2020. Hubungan Kompetensi Tenaga Pengajar Kemahiran Vokasional Terhadap Kepuasan Bekerja. Seminar Antarabangsa Isu-isu Pendidikan (ISPEN 2020). Kolej Universiti Islam Antarabangsa Selangor (KUIS). 10 November 2020.

and comprehensively.⁵ Furthermore, competency is also defined as the fundamental individual characteristics required to perform a job, such as skills, knowledge, attitudes, beliefs, motives, and traits; which enable the production of outstanding work aligned with the organization's strategic functions.⁶

The fundamental components of competency comprise knowledge, skills, and attitudes or personal qualities, with these three core elements significantly influencing an individual's task execution capabilities.⁷ Individuals possessing appropriate competencies contribute to enhanced individual performance, subsequently facilitating overall performance excellence. Organizational success is inherently dependent on employee quality, as the absence of efficient and quality human resources impedes organizational advancement across multiple dimensions.

In this study, the competencies of Sulh Officers in conducting Sulh Council proceedings will be identified through three main objectives: examining how skills, knowledge, and personality of Sulh Officers impact the management of Sulh proceedings. To pursue these research findings, a qualitative study will be conducted. The results of this study can serve as a reference in identifying required Sulh Officer competencies, subsequently enabling comprehensive planning for improving work performance as a Sulh Officer.

This study employs a qualitative research approach to identify the knowledge and skill levels of sulh officers in conducting Sulh Council proceedings and to analyze the required personality traits of sulh officers during these proceedings. Semi-structured interviews were conducted to achieve the study's objectives. In this research, informants were selected through purposive sampling. Informants were purposively chosen to ensure responses aligned with the research topic. The researchers selected currently active sulh officers as informants for the interviews. The sample consisted of five sulh officers. Four of them were senior sulh officers with extensive service experience ranging from four to ten years and had handled various sulh cases. The fifth officer, although newer to the service, was skilled and had managed numerous sulh cases. Interviews were conducted both face-to-face and online through Google Meet application. The interview process was recorded using a mobile device throughout the sessions. The researcher also documented important inputs in a notebook. Permission was obtained from the informants for audio recording and interview note-taking. Upon completion of the interviews, all

⁵ Lilia Halim, Abd Razak Habib, Abd Rashid Johar & T.Subahan Mohd Meerah. 2001. Tahap pengetahuan pedagogi kandungan guru pelatih fizik dan bukan fizik melalui pengajaran eksplisit dan implisit. Bangi: Penerbit Universiti Kebangsaan Malaysia.

⁶ Roselena Mansor & Mohd Izham Mohd Hamzah. 2015. Kepimpinan Berkualiti: Perspektif Mengenai Kompetensi yang Diperlukan untuk Memimpin dengan Berkesan. *Jurnal Pengurusan*. 45, p. 143-154.

⁷ Maidatulakmal Othman. Tahap Kompetensi Pelajar Melaksanakan Kerja Amali Berpanduan Domain Psikomotor Simpson. Tesis Sarjana, Fakulti Pendidikan Teknikal dan Vokasional, Universiti Tun Hussein Onn Malaysia.

interview data were collected, filtered, and analyzed thematically, where data with similar meanings were grouped and labelled according to themes or categories."

Sulh as a Dispute Resolution Mechanism

In reality, disputes are a natural occurrence that frequently happens in community life, whether within family institutions or communities, either in the civil or criminal cases⁸. In facing these disputes, there are various forms of problem-solving or conflict resolution that can be applied to overcome issues through mutual agreement. These methods are known as Alternative Dispute Resolution (ADR) such as negotiation, conciliation, mediation, arbitration, a combination of mediation and arbitration, and *muhtasib* or similar approaches.⁹

The term sulh carries multiple meanings. Linguistically, sulh refers to efforts to resolve disputes between involved parties and subsequently reach an agreement without coercion to establish peace between all parties involved.¹⁰ According to Shariah perspective, sulh is a contract that establishes agreement and ends disputes.¹¹ Meanwhile, from a legal perspective in Majallah Al-Ahkam Al-Adliyyah and according to some scholars like al-Sheikh Nazzam and Qadri, sulh is defined as a contract that ends disputes voluntarily and with mutual consent.¹²

Sulh is also clearly mentioned in the Quran and hadith, showing that disputes or conflicts can achieve peace and harmony through sulh as referred to Surah an-Nisa verse 128 which means:

"And if a woman fears from her husband contempt or evasion, there is no sin upon them if they make terms of settlement between them - and settlement is best."

Based on this verse, it clearly shows that every couple needs to always be mindful about resolving conflicts that occur and the methods that should be applied to prevent conflicts.¹³

Sulh practice has served as one of the important instruments in the Islamic judicial system. This practice has long been used in resolving disputes since the time

⁸ Setiawan, D., Hadi, I., Rahmad, N., Rizqi, A., & Arifah, K. (2025). Law Enforcement of Sexual Violence on Social Media: An Islamic Restorative Justice Perspective. *De Jure: Jurnal Hukum dan Syar'iah*, 17(1), p. 90-111.

⁹ Raihanah Hj. Azahari. 2004. Kaedah Menyelesaikan Pertikaian Keluarga Dalam Masyarakat Melayu: Zaman Pra dan Pasca Kolonial. *Jurnal Syariah*. 12(1), p. 125-150.

¹⁰ Mustofa Al-Khin. 2016. *Fiqh al-Manhaji 'ala Mazhab al-Shafi'i*. Jilid 6. Pustaka Salam.

¹¹ Mohammad Nor Anwar Mohd Sabri & Noradha Ab Hamid. 2021. Sulh and Peace: Its Application According to Islamic Perspective. *International Journal of Law Government and Communication*. 6(24), p. 76-83.

¹² Raihanah Azahari (2005). Konsep sulh dalam Islam. penyelesaian konflik keluarga di mahkamah syariah: peranan sulh dan keberkesanannya. Seminar Isu-isu Mahkamah Syariah VII. Gombak: Kulliyyah Undang-undang Ahmad Ibrahim, UIAM, 29 Januari, 2005.

¹³ Mohammad Nor Anwar Mohd Sabri & Noradha Ab Hamid. 2021. Sulh and Peace: Its Application According to Islamic Perspective. *International Journal of Law Government and Communication*. 6(24), p. 76-83.

of Prophet Muhammad (peace be upon him). In Malaysia, the sulh method was first introduced in the practice of the Syariah Court in Selangor in 2001, where this method prioritizes peaceful and voluntary dispute resolution. The implementation of this method is also carried out by the Department of Syariah Judiciary Malaysia (JKSM), and a sulh manual has been published which contains procedures for mediation methods, reconciliation, and the code of conduct framework for judicial officers conducting sulh proceedings.¹⁴ Disputing parties are strongly encouraged to adopt the alternative approach of sulh process in addressing their disputes.¹⁵

Therefore, utilizing the sulh approach can actually provide positive impacts for disputing parties if consensus and reconciliation can be achieved. They do not need to go through court trials which would take a longer time to resolve, whether in terms of time, costs, and reaching mutual agreement. The application of the sulh method is not something new in Muslim life; rather, it is an effective method in resolving disputes that occur.

Studies on the concept of sulh have been extensively conducted by local researchers. The scope of research on the sulh concept has presented writings from various aspects including definitions, historical development, theories, and evidence from the Quran and Sunnah. Each researcher has interpreted the term sulh with different definitions. Research by Wan Azimin Wan Adnan & Ahmad Hidayat Buang (2021) defines sulh as reconciliation based on the understanding of the use of the noun sulh in the Quran¹⁶ in Surah an-Nisa verse 114 which means:

“There is no good in most of their secret talks, except for those who enjoin charity, or goodness, or reconciliation between people. And whoever does this seeking Allah's pleasure, We will give them a great reward.”

Syed Sabiq defines sulh as terminating disputes, while according to Wahbah Zuhaili, sulh is an agreement established to resolve disputes between conflicting parties in reaching consensus and reconciliation.¹⁷ Raihanah Azahari in her writing elaborates on the concept of sulh which refers to all dispute resolution processes including negotiation, arbitration, wakalah (agency/representation), and others.¹⁸

¹⁴ Nur Khalidah Dahlan, Mohd Rizal Palil, Mohamad Abdul Hamid & Noor Inayah Yaakub. 2017. Kaedah Penyelesaian Pertikaian Alternatif Dari Sudut Syariah di Malaysia. *Journal of Nusantara Studies*. 2(1), p. 86-98.

¹⁵ Hammad Mohamad Dahalan & Mohamad Azhan Yahya. 2016. Perjanjian sulh di antara pihak-pihak bertikai di Mahkamah Syariah sebagai pilihan atau persetujuan yang perlu dipatuhi?. Muzakarah Fiqh & International Fiqh Conference 2016. 22 & 23 November 2016.

¹⁶ Wan Azimin Wan Adnan & Ahmad Hidayat Buang. 2021. Pelaksanaan Sulh Dalam Kes Tuntutan Harta Sepencarian Melibatkan Hartanah Di Mahkamah Syariah Malaysia: Satu Analisis. *Malaysian Journal of Syariah and Law*. 9(1), p. 137-152.

¹⁷ Wahbah Al-Zuhaili. al-Fiqh al-Islami wa adillatuhu: al-shamil lil-adillah al-shar'iyah wa-al-ara' al-madhhabiyah wa-ahamm al-nazariyah al-fiqhiyah wa-tahqiq al-Ahadith al-Nabawiyah wa-takhrijuha. Beirut: Dar al-Fikr, 1989. Juz V.

¹⁸ Raihanah Azahari. (2006). Modifikasi Teori Sulh Dalam Fiqh Klasik Berasaskan Data-Data Kajian Terbaru. *Jurnal Pengajian Melayu*. 17, p. 232–246.

Many sources from the Quran and Hadith encourage the implementation of sulh as an alternative path for conflict or dispute resolution. This can be seen through Allah's decree in Surah al-Hujurat verse 9 which means:

"And if two factions among the believers should fight, then make settlement between them."

Allah s.w.t states in Surah an-Nisa verse 128 which means:

"And if a woman fears nusyuz (contempt/aversion) or desertion from her husband, there is no sin upon them if they make terms of settlement between themselves - and settlement is best. For indeed, reconciliation is better (than separation)."

Hadenan Towpek et al. in their study state that according to Wahbah Zuhaili, there are four essential pillars (rukun) of sulh practice, along with their conditions that must be fulfilled,¹⁹ which consist of:

- 1) The Contracting Parties; the condition for sulh participants is that they must be of sound mind.
- 2) The Offer and Acceptance (Sighah); the condition for sulh pronouncement requires the existence of an offer (ijab) and acceptance (qabul) that demonstrates the agreement and willingness of both parties to undergo the sulh process.
- 3) The Disputed Matter; only rights relating to human affairs are permitted through the sulh process, while God's rights are not permitted for sulh, such as exempting oneself from punishment for adultery and all types of God's rights..
- 4) The Substitution of the Disputed Matter; there are two conditions to allow something to become badal sulh (substitution): It must be a type of property that has value in Islamic law, whether in the form of goods, debt, or benefit; and it must be something that is known/identifiable.

Aida Othman has proven that sulh is one of the best dispute resolution methods based on Islamic law. This aligns with the analysis conducted by Syed Khalid Rashid (2004) regarding the position of sulh, which demonstrates that sulh is part of the alternative dispute resolution methods found in Islamic jurisprudence. He also explained the concept of sulh according to Shariah law, which encompasses peace/reconciliation, tahkim (arbitration), negotiation, mediation, muhtasib (ombudsman).

The research findings from Mohd Fuad Salleh & Jamilah Othman (2008) revealed that Sulh officers resolve disputes between involved parties by

¹⁹ Hadenan Towpek, Ahmad Shah Affandie & Zaenudin Hudi Prasajo. 2023. Amalan Pengurusan Sulh Di Jabatan Kehakiman Syariah. *Journal of Shariah Law Research (JSLR)*. 8(1), p. 1-32.

implementing two fundamental principles: ensuring that the dispute resolution method does not contradict Shariah law and statutory provisions, while being based on mutual consent.²⁰ Research conducted by Hadenan Towpek et al. (2023) concluded that the Sulh method has been successfully established based on sources from the Quran, Sunnah, and Islamic jurisprudential heritage, which has evolved throughout different eras. This study also found that Sulh represents one of the Alternative Dispute Resolution (ADR) methods outside the court system, achieving mutual agreement through a simplified and streamlined process based on a 'win-win solution'. Furthermore, the study confirmed the importance of specialization in professional duties as Sulh officers, particularly in strengthening soft skills such as communication, psychological, and counseling competencies.²¹

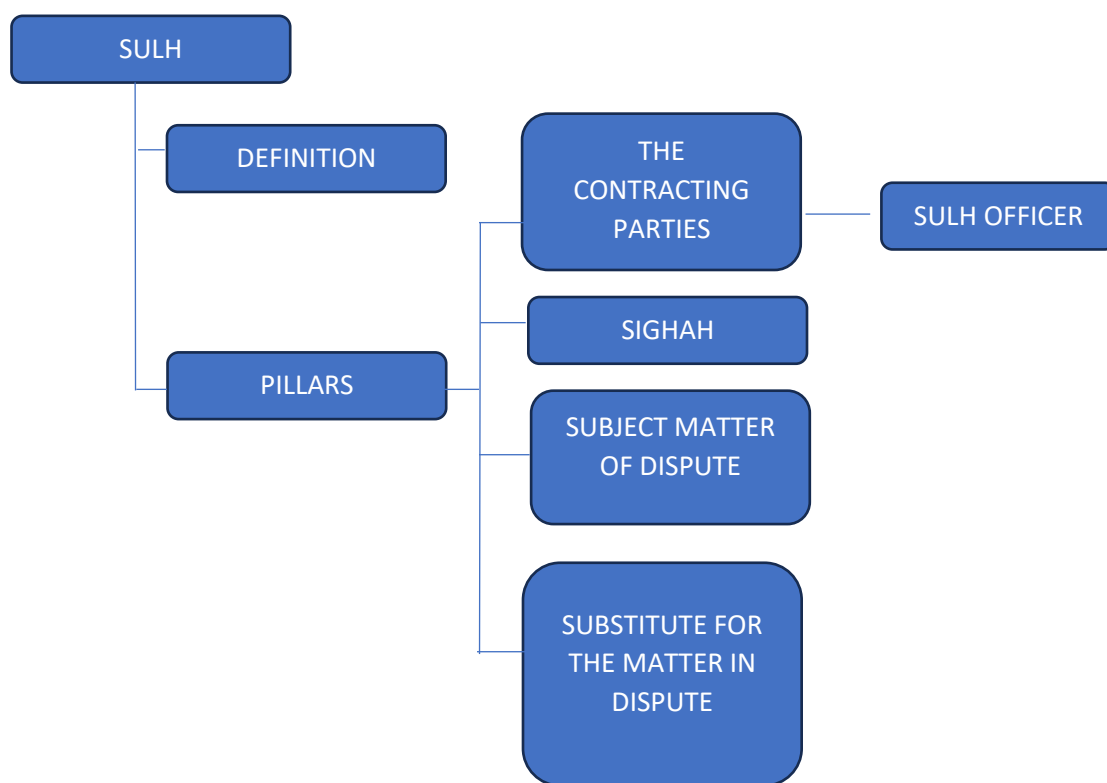


Figure 1: The Position of Sulh Officers within the Sulh Knowledge Corpus

²⁰ Mohd Fuad Mohd Salleh & Jamilah Othman. 2008. Peranan Pegawai Sulh dalam Penyelesaian Konflik Keluarga Islam. *Journal of Technical & Social Studies*. 7(1), p. 37- 48.

²¹ Hadenan Towpek, Ahmad Shah Affandie & Zaenudin Hudi Prasajo. 2023. Amalan Pengurusan Sulh Di Jabatan Kehakiman Syariah. *Journal of Shariah Law Research (JSLR)*. 8(1), p. 1-32.

Legal Provisions Concerning Sulh Practice

To streamline and facilitate the Sulh process in the Syariah Courts, the Syariah Court Committee has been empowered through Section 247(c) of the Syariah Court Civil Procedure Act (Federal Territories) 1998 to enact jurisdiction relating to Sulh. Consequently, the Civil Procedure (Sulh) Federal Territory 2004 was enacted. This provision contains regulations regarding the implementation of Sulh procedures, such as the scheduling of Sulh Sessions, non-attendance of parties in Sulh Sessions, implementation and procedures of Sulh, and judgments made by mutual consent during Sulh Sessions.

The purpose of enacting these provisions was to further clarify and detail any ambiguities contained in Section 99 of the Syariah Court Civil Procedure Act (Federal Territories) 1998, which only provided general provisions regarding Sulh. Furthermore, to refine the workflow and role of Sulh officers, the Department of Syariah Judiciary Malaysia (JKSM) introduced the JKSM Sulh Work Manual, which has been implemented across all Syariah Courts in Malaysia. The introduction of the Sulh Work Manual aims to explain the following matters in detail:

- i. Process of initiating Sulh Sessions;
- ii. Case presentation by disputing parties;
- iii. Joint discussions;
- iv. Single party meetings or caucuses;
- v. Collective negotiations;
- vi. Judgment based on mutual consent;
- vii. Confidentiality

Every Sulh officer's profession is bound by the Sulh Work Manual in conducting Sulh processes for disputing parties. Additionally, in implementing the Sulh process, Sulh officers are also bound by the Code of Ethics for Sulh Officers as established by the Department of Syariah Judiciary Malaysia (JKSM). The purpose of enforcing this code of ethics is to maintain the responsibilities of Sulh officers who act as mediators and responsible parties in assisting disputing parties to achieve agreement and reconciliation.

The implementation of Sulh in Syariah Courts, which derives its authority from the Civil Procedure Rules (Sulh) and Syariah Court civil procedure laws, has been given more detailed guidelines through the application of Practice Directions (Arahan Amalan).²² Wan Azimin Wan Adnan et al. revealed that there are 14 Practice Directions (Arahan Amalan) directly related to Sulh implementation. The existence of these procedures serves as a guideline for standardized Sulh

²² Wan Azimin Wan Adnan & Ahmad Hidayat Buang. 2021. Pelaksanaan Sulh Dalam Kes Tuntutan Harta Sepencarian Melibatkan Hartanah Di Mahkamah Syariah Malaysia: Satu Analisis. *Malaysian Journal of Syariah and Law*. 9(1), p. 137-152.

implementation in the Syariah Courts, subsequently resulting in positive effects on the efficiency and uniformity of Sulh proceedings.²³

However, Wan Azimin Wan Adnan & Ahmad Hidayat Buang in their writing stated that studies and publications addressing legislation for civil procedures regarding Sulh only discuss the civil procedure rules of specific states and do not comprehensively address the legislation for all states in Malaysia. According to this publication, although the Civil Procedure Rules (Sulh) have been enacted and implemented as guidelines for Sulh officers in the Syariah Courts of certain states, there is a lack of uniformity between states. This aligns with the study conducted by Nur Khalidah Dahlan et al. (2017), which indicated that there are still states that have not established specific civil procedure rules (Sulh), and some states have yet to enforce them.²⁴ Therefore, for the states concerned, the implementation of Sulh is based on the JKSM Sulh Work Manual and supported by the internet-based E-Syariah system (Sulh Module).

Sulh Manual

To assist Sulh officers in managing Sulh sessions, there exists a Sulh Manual that aims to refine the workflow and roles performed by Sulh officers. The Sulh proceedings begin with the issuance of a Sulh Notice sent to disputing parties after one party files a claim in the Syariah Court. The involved parties will attend and be placed in a Sulh Room, without the presence or intervention of third parties. The discussion session then commences with a prayer recitation by the Sulh officer. The session continues with the first phase, which is the opening statement by the Sulh officer, followed by initial presentations by the disputing parties. Subsequently, a joint discussion session takes place. Fourth, individual party meetings or caucuses (if necessary) are held, and the fifth and final session involves joint negotiations to produce a Draft Memorandum of Understanding.

The discussion of ethics during Sulh proceedings are clearly stated by the Sulh officer during the first session, namely the opening statement session, and repeated reminders are given if disputing parties violate the stated ethics. This is to ensure calm and peace are maintained throughout the process. The Sulh officer also consistently reminds all parties that they are not compelled to agree to any decision, but they must attempt to understand each other's problems without sacrificing their respective rights. This aligns with the objective of the Sulh process, which is to create

²³ Wan Azimin Wan Adnan, Ahmad Hidayat Buang & Zubaidi Sulaiman. 2022. *Pemeraksanaan pelaksanaan sulh dalam kes-kes hartanah melalui pemakaian arahan amalan di Mahkamah Syariah di Malaysia. UUM Journal of Legal Studies*. 13(2), p. 345-371.

²⁴ Nur Khalidah Dahlan, Mohd Rizal Palil, Mohamad Abdul Hamid & Noor Inayah Yaakub. 2017. *Kaedah Penyelesaian Pertikaian Alternatif Dari Sudut Syariah di Malaysia. Journal of Nusantara Studies*. 2(1), p. 86-98.

a fair process for both parties to conduct discussions and negotiations, rather than merely achieving agreement.²⁵

During this first session, the advantages of resolution through Sulh proceedings compared to court trials are communicated to the disputing parties. Any decisions resulting from the Sulh session must be recorded, and if no settlement is reached, the case is referred for mention in court. If an understanding is achieved, the Memorandum of Understanding will be endorsed before a Judge as a Consent Order (*Perintah Persetujuan Bersama*).²⁶

Code of Ethics for Sulh Officers

The Code of Ethics was introduced in July 2002. This code aims to maintain and regulate the conduct of Sulh officers during the mediation process and throughout their tenure as Sulh officers. The code is divided into two parts; The first part addresses the general responsibilities of Sulh officers throughout their professional service, including prohibition from engaging in any behaviour that could tarnish the reputation of the Syariah Court as a justice institution, restriction from associating in suspicious situations where their credibility as Sulh officers might be questioned and prohibition from accepting any gifts from related parties (as per the Sulh Officers' Code of Ethics).

The second part focuses on specific responsibilities of Sulh officers while conducting and managing the mediation process. These include prohibition from performing mediation duties while unwell, hungry, or angry and restriction from handling cases involving their adversaries or friends to prevent bias in case resolution (as per the Sulh Officers' Code of Ethics).

The Sulh officers' code of ethics closely parallels that of Syariah Court judges. This indicates that the expected conduct of Sulh officers is similar to judges, with the main difference being in their scope of authority. While judges have the power to issue court orders or judgments, Sulh officers serve solely as mediators between disputing parties to resolve issues through appropriate methods and procedures. Therefore, their credibility and responsibilities must align with both ethical and legal requirements.²⁷

Competencies of Sulh Officers

A Sulh officer must possess a clear understanding of their role and demonstrate requisite competencies, encompassing the necessary knowledge, skills, and personal attributes that enable exemplary performance in their professional domain. As a judicial mediator, the individual must maintain a comprehensive

²⁵ Ramizah Wan Muhammad. 2008. The Theory and Practice of Sulh (Mediation) in the Malaysian Shariah Courts. *IIUM Law Journal*. 16(1), p. 34-50.

²⁶ Hui. Tan Yeak & Mohamed, Ashgar Ali. (2006). Mediation/Conciliation in the Malaysian Courts: With Emphasis on Settlement of Labour Disputes. *Lawasia J.* 163

²⁷ Ramizah Wan Muhammad. 2008. The Theory and Practice of Sulh (Mediation) in the Malaysian Shariah Courts. *IIUM Law Journal*. 16(1), p. 34-50.

understanding of their duties and possess appropriate competencies to ensure the effective execution of all responsibilities.

The primary competency element required of Sulh officers is comprehensive knowledge. Research problems concerning the ambiguity of required knowledge among Sulh officers refer to the uncertainty or insufficient understanding of specific aspects of expertise that should be mastered in conducting Sulh proceedings (Islamic mediation sessions). This lack of clarity stems from the absence of explicit guidelines in determining what should constitute the fundamental knowledge base for Sulh officers. Classical Islamic jurists (*Fuqaha'*) have dedicated specific discussions regarding Sulh in their writings, known as Kitab al-Sulh.²⁸ Whereas Sulh officers are vested with the responsibility of guiding litigating parties toward mutually acceptable resolutions, the precision and comprehensiveness of their professional knowledge base remains paramount in facilitating the seamless and effective implementation of Islamic mediation proceedings.

The second element of competency is skillfulness. Factors contributing to the failure of sulh (mediation/reconciliation) as recorded in previous studies include the lack of skills among sulh officers. Enhanced understanding of appropriate skills by sulh officers can help improve effectiveness in conflict resolution. Since the role of sulh officers involves negotiation and mediation processes between disputing parties, the lack of proper skills can result in failure to achieve agreement and reconciliation.

The third element concerns personality. The impact of worker's personality or personal characteristics on job performance is a critical issue that requires serious attention for investigation.²⁹ Personality compatibility can determine an individual's performance in executing tasks and the type of work performed. This is because an individual's personality helps them to respond, observe, think, and subsequently stimulates their behavioral responses to the environment.³⁰ Uncertainty arises regarding the required personality traits for sulh officers due to diverse perspectives on desired characteristics, while each dispute or conflict may require different approaches and personality types.

Furthermore, questions arise regarding whether the marital status and academic qualifications of sulh officers influence the success of sulh proceedings. Sulh proceedings conducted in the Shariah Courts predominantly involve post-divorce claims such as hadhanah (child custody), mut'ah (consolatory gift), and division of matrimonial property. For married sulh officers, they may better understand the dynamics and challenges of family life, making it easier for them to

²⁸ Raihanah Azahari. (2006). Modifikasi Teori Sulh Dalam Fiqh Klasik Berasaskan Data-Data Kajian Terbaru. *Jurnal Pengajian Melayu*. 17, p. 232–246.

²⁹ Fadillah Ismail & Adibah Abdul Kadir. 2021. Personaliti Big Five Dengan Prestasi Kerja Pengurusan Sumber Manusia. *Human Sustainability Procedia*. 1(1), p. 29-44.

³⁰ Neema Gupta & Ashish K. Gupta. 2020. Big Five Personality Traits and Their Impact on Job Performance of Managers in FMCG Sector. *International Journal of Recent Technology and Engineering (IJRTE)*. 8(5).

comprehend the problems faced by disputing parties. Meanwhile, academic qualifications here refer to the formal education level possessed by sulh officers. Those with strong educational backgrounds may be better equipped to provide comprehensive and accurate perspectives in guiding conflicting parties. Therefore, this study will examine whether the marital status and academic qualifications of sulh officers can influence the success rate of sulh proceedings.

The analysis of interview data revealed several key competencies that are essential for sulh officers in facilitating effective mediation sessions. The findings of the study based on thematic analysis of interview data collected from five Sulh officers. The analysis revealed several key competencies required for effective mediation in Malaysia's Syariah courts. From all the interview session, the themes identified include Psychological and Emotional Competencies, Communication Skills, Non-Verbal Communication and Body Language, Inclusivity and Special Communication Needs, Mediation and Negotiation Skills, and Professional Development and Learning.

Psychological and Emotional Competencies

Informants 1, 3, 4, and 5 emphasized that psychological skills are among the essential competencies required by Sulh officers in conducting mediation proceedings. These skills are crucial for identifying behavioral changes and understanding the mental processes of the parties involved. Informant 5 highlighted the importance of emotional regulation, noting that officers must manage their own emotions to effectively handle those of the disputing parties. This self-regulation enables officers to maintain professionalism and respond appropriately to emotionally charged situations.

"As human beings, we have our own personal challenges. Therefore, we must not allow our personal emotions to influence Sulh Council proceedings. When we can regulate our own emotions effectively, we become better equipped to manage the parties' emotional states."

Communication Skills

All informants agreed that communication skills are fundamental for Sulh officers. These skills are vital in ensuring the smooth progression of the Sulh process and encouraging parties to engage in dialogue. Effective communication involves not only verbal fluency but also the ability to use appropriate intonation and voice modulation. Informant 5 stressed the importance of language use, stating that officers must be able to adjust their language registers to address manipulation and break down emotional barriers between parties. Informant 4 added that linguistic proficiency, particularly in languages other than Malay such as English, is necessary to avoid alienating parties who may communicate in different languages.

"When there is an attempt to manipulate facts, we need to address it using appropriate language registers."

"We need to break down the walls of ego between parties by thinking rationally and employing suitable language."

Non-Verbal Communication and Body Language

Informants 2, 3, and 5 emphasized the importance of interpreting body language as a key competency for Sulh officers. This skill helps officers understand non-verbal cues and facial expressions, which can reveal discomfort or tension. Informant 2 explained that signs of discomfort often indicate that parties are withholding information, and officers must employ appropriate strategies to encourage openness. The ability to manage visible tension is essential for initiating meaningful dialogue and ensuring that mediation can proceed effectively.

"When we observe signs of discomfort, it typically indicates that parties are withholding information. Therefore, it is necessary to employ appropriate strategies to address such situations until we can encourage meaningful dialogue between the parties."

"Mediation proceedings cannot commence when both clients exhibit visible tension. Hence, it is crucial to possess the competency to manage such situations effectively."

Inclusivity and Special Communication Needs

Informant 1 highlighted the need for Sulh officers to possess basic sign language skills to communicate with parties who have hearing impairments or speech disabilities. While parties may bring representatives to assist, officers should be equipped to engage directly with all individuals. This competency ensures inclusivity and supports effective communication across diverse backgrounds.

Mediation and Negotiation Skills

Informants 2 and 3 identified several core mediation competencies, including negotiation skills, active listening, analytical thinking, agreement drafting, and conflict de-escalation techniques. Informant 3 also emphasized interpersonal competencies and trust-building abilities. These skills help officers create a safe and impartial environment where parties feel comfortable sharing sensitive information. Trust-building, in particular, was noted as essential for facilitating collaborative problem-solving and achieving mutual agreements.

"We must ensure that parties do not perceive any prejudice towards either side. This underscores the critical importance of trust-building."

"To ensure parties trust us sufficiently to disclose case-relevant information. This transparency enables us to understand the core issues and assist in reaching mutual agreements."

Professional Training Development and Learning

Informants 1, 3, 4, and 5 agreed that the competencies discussed can be developed through structured training programs organized by authorized bodies.

These programs provide exposure to essential skills and practical techniques. Additionally, Informants 2, 4, and 5 emphasized the importance of practical experience in refining these competencies. They noted that repeated exposure to mediation sessions helps officers develop effective management strategies. Informants 2 and 4 also highlighted the value of vicarious learning through mentorship and consultation with senior officers. Learning from the experiences of others was seen as a valuable method for improving case management and enhancing professional capabilities.

"While we may struggle to handle cases initially, repeated exposure to such sessions enables us to develop effective management strategies." – Informant 2

"These are competencies that cannot be fully acquired through theoretical learning alone but through practical experience." – Informant 5

"The experiences of others can serve as valuable guidance for case management. We learn from their challenges and implement new approaches." – Informant 2

"We can acquire knowledge from senior Sulh officers who possess extensive experience." – Informant 4

All the themes identified above has been later on classified some of the important key themes that reflect the competencies required of *sulh* officers in managing mediation sessions effectively. These themes were developed by identifying recurring patterns and insights across participant responses. The analysis focused on grouping similar ideas into categories that represent core areas of competence. Three main themes emerged from the data: Skills, Knowledge and Personality Trait. Each theme captures a distinct aspect of the competencies that contribute to successful dispute resolution in the context of Malaysian Syariah courts.

These findings underscore the multifaceted nature of competence required for *sulh* officers, aligning with previous studies that stress the importance of both technical and interpersonal skills in mediation. The emphasis on communication and legal knowledge reflects the dual responsibility of *sulh* officers to facilitate dialogue and ensure compliance with Syariah principles. The recognition of personality traits as essential competencies suggests that emotional intelligence is just as critical as procedural expertise in resolving family disputes. The lack of impact from marital status and academic qualifications challenges traditional assumptions and highlights the value of practical experience and targeted training. These insights point to the need for structured competency development programs that integrate legal education, communication training, and character-building initiatives to strengthen the effectiveness of *sulh* mediation in Malaysia.

Competency in Sulh Management Skills

Sulh represents a highly constructive and helpful method in dispute resolution. In the practice of Sulh Council at the Shariah Courts, the sulh process is conducted by qualified sulh officers, both male and female. Research findings

through journal publications conducted by Ruzita Ramli et al. indicate that the importance of sulh officers in Shariah Court institutions is undeniable. The study conducted by Ruzita Ramli et al. aimed to identify the competency skills of female sulh officers in managing the sulh process. Analysis results demonstrate that female sulh officers are on par with male sulh officers in terms of career progression and promotion opportunities, and are equally competent in their knowledge of Shariah law, legal regulations, and sulh work manual procedures.³¹ However, this study encompassed all Shariah Courts in Malaysia, covering 13 states and one Federal Territory.

From the data, it can be concluded that a sulh officers require a range of essential skills to effectively manage mediation sessions. These include strong communication abilities in both verbal and non-verbal to facilitate dialogue, interpret body language, and use appropriate tone and language. Emotional regulation and psychological insight are also crucial, enabling officers to manage their own emotions and respond sensitively to parties in conflict. Mediation skills such as negotiation, active listening, and conflict de-escalation help guide parties toward mutual understanding. Additionally, inclusivity skills, like basic sign language and multilingual communication, ensure accessibility for all participants. These competencies are further strengthened through continuous training, practical experience, and mentorship.

Knowledge Competency

Knowledge constitutes a fundamental competency required of Sulh officers. Therefore, a Sulh officer must possess comprehensive knowledge in conducting Sulh Council proceedings. All informants, through interviews, concurred that knowledge is a crucial element that must be possessed and mastered by Sulh officers in managing Sulh Council proceedings. The presence of such knowledge significantly impacts the efficient administration of Sulh proceedings.

All informants emphasized that the primary knowledge domains essential for Sulh officers encompass legal knowledge and Islamic jurisprudence (*hukum syarak*). Both these knowledge domains are fundamental for a Sulh officer and must be thoroughly mastered to ensure smooth mediation proceedings. Additionally, Informants 2 and 5 asserted that Sulh officers should also possess knowledge of civil law. According to the informants, Sulh officers' knowledge base should not be limited to Shariah-related matters exclusively. They should also be well-versed in civil law, including relevant statutory provisions pertaining to claimed cases, to facilitate clear explanations to the parties involved.

In this context, several methods exist for enhancing Sulh officers' knowledge competencies. Informants 1, 2, and 3 indicated that such knowledge can be enhanced

³¹ Ruzita Ramli, Dina Imam Supaat, Hasnizam Hashim & Ramizah Wan Muhammad. 2022. Kompetensi Dan Prestasi Pegawai sulh Wanita Dalam Mengendalikan Kes Mal Di Mahkamah Syariah. *Jurnal Islam dan Masyarakat Kontemporari*. 23(1), p. 309-322.

through participation in courses and seminars organized by relevant authorities. According to Informants 1, 2, and 4, this knowledge can also be acquired through experiential learning, encompassing both personal experience and learning from others' experiences. Furthermore, Informants 2 and 5 emphasized that knowledge acquisition and enhancement can be achieved through independent study and literature review.

Sulh Officer Personality

Guion & Gottier conducted a study on employee personality, indicating that work performance can be evaluated through the quantitative aspect of work produced within a specified timeframe.³² Additionally, Guion & Gottier (1965) posited that individual work performance is not solely measured by quantitative product output but also by qualitative factors including attendance, engagement, efficiency, leadership, and responsibility. Among the factors influencing work performance is the personality characteristics of individuals within an organization.³³ According to these researchers, the impact of personality on work performance is evident, and most organizations emphasize personality traits in their recruitment processes, as personality constitutes a crucial element within organizational contexts. Employees must adeptly align their personalities with their professional environment.³⁴ Employee personality represents a critical factor in achieving career success and can lead to enhanced work performance across all departmental levels within organizations.³⁵ Positive personality traits can cultivate employees who exhibit positive values in emotional, cognitive, and behavioral domains, subsequently contributing to various aspects of performance effectiveness.³⁶

As Sulh officers, there are several dispositional attributes that require particular attention in conducting Sulh Council proceedings. Informants 1, 3, 4, and 5 emphasized that Sulh officers must possess and demonstrate patience during the mediation process. This attribute is particularly crucial as the participating parties typically present with various concerns, and officers must attentively consider narratives from both parties:

³² Guion, R. M., & Gottier, R. F. 1965. Validity of personality measures in personnel selection. *Personnel Psychology*. 18(2), p. 135–164.

³³ Siti Munirah Abdullah & Nur Husna Mohd Hussain. 2018. Hubungan Antara Personaliti dan Latihan Terhadap Prestasi Kerja di Yayasan Terengganu: Pengujian Kebolehpercayaan Instrumen. Proceeding of the 5th International Conference on Management and Muamalah 2018 (ICoMM 2018).

³⁴ Fatimah Wati Halim. 2003. Personaliti Serta Hubungannya dengan Tekanan Kerja dan Kualiti Kehidupan Bekerja di Kalangan Guru. *Jurnal Psikologi Malaysia*. 17, p. 65-82.

³⁵ Fadillah Ismail & Adibah Abdul Kadir. 2021. Personaliti Big Five Dengan Prestasi Kerja Pengurusan Sumber Manusia. *Human Sustainability Procedia*. 1(1), p. 29-44.

³⁶ Siti Munirah Abdullah & Nur Husna Mohd Hussain. 2018. Hubungan Antara Personaliti dan Latihan Terhadap Prestasi Kerja di Yayasan Terengganu: Pengujian Kebolehpercayaan Instrumen. Proceeding of the 5th International Conference on Management and Muamalah 2018 (ICoMM 2018).

"Internal patience is essential. Without it, facilitating parties toward resolution becomes unfeasible. We must understand that those who seek our services are individuals experiencing difficulties." -Informant 1

"Patience is indeed a necessary attribute." -Informant 3

"From the perspective of patience, neither anger nor fatigue should be present. If we observe that one party appears passive, we must skillfully intervene." - Informant 4

"Sulh officers must exercise patience. If we lack patience and rush to conclude cases, resolution becomes unattainable. There should be no element of coercion in decision-making." -Informant 5

Informants 1 and 3 emphasized that Sulh officers must maintain neutrality. They must not demonstrate bias and should remain impartial to both parties:

"We cannot favor only one party; we must maintain neutrality consistently, regardless of whether the matter is right or wrong - we must remain centered." -Informant 1

"The paramount importance lies in maintaining neutrality and impartiality. We must avoid first impressions and negative presumptions until we meet both parties. We do not want the parties to perceive any prejudice towards either side." -Informant 3

Informant 1 further articulated that Sulh officers must also demonstrate gentleness while conducting Sulh Council proceedings:

"Another essential attribute is gentleness. Being gentle in communication with the parties is crucial. When we exhibit gentleness, people perceive us as approachable for discussion. Even if we appear slightly assertive, we maintain gentle communication."

Informant 2 emphasized that Sulh officers must maintain parties' confidentiality, avoid excessive presumptions, and demonstrate genuine commitment in providing assistance. Similarly, Informant 3 stressed the importance of maintaining parties' confidentiality. According to Informant 3, the principle of confidentiality must be prioritized to ensure parties can place complete trust in the Sulh officer's handling of their matters. Informant 5 added that Sulh officers must remain attentive during Sulh Council proceedings. Officers must listen attentively to all issues presented to them and remain cognizant of crucial facts.

Regarding whether a Sulh officer's marital status influences the success of Sulh Council proceedings, four informants shared a consistent stance that marital status does not affect the success of Sulh proceedings. According to these informants, although some Sulh officers are unmarried, they have successfully managed and resolved parties' disputes, achieving successful Sulh status. Conversely, married Sulh officers occasionally fail to achieve successful Sulh status. The informants concurred that the officer's professional quality is paramount, regardless of their marital status. However, Informant 2 held a divergent view, suggesting that marital status can influence the success of Sulh Council proceedings. According to this

informant, married Sulh officers possess better understanding of the situations experienced by the parties. Consequently, they can better empathize with such scenarios, develop deeper understanding of the circumstances, and subsequently assist parties in reaching agreements.

Regarding academic qualifications, Informants 1, 3, 4, and 5 concurred that academic qualifications do not determine the success of Sulh Council proceedings; rather, they merely provide additional advantages to Sulh officers in conducting proceedings. In contrast, Informant 2 asserted that higher academic qualifications can significantly impact and influence the success of Sulh Council proceedings. According to this informant, the knowledge and research acquired through higher education can assist Sulh officers in applying theoretical concepts to practical Sulh Council proceedings.

NO.	COMPETENCIES	DETAILS
1.	Skills	Psychology
		Language Proficiency
		Body Language and Gestures
		Basic Mediation
		Interpersonal
		Trust Building
2.	Knowledge	Civil Law
		Islamic Law
3.	Personality	Fair/Impartial
		Attentive
		Gentle
		Patient
		Able to Maintain Confidentiality

Table 1: Summary of Required Competencies for Sulh Officers

Conclusion

The findings of this study would be particularly beneficial for several key stakeholders involved in the *sulh* process and family dispute resolution in Malaysia. First and foremost, Syariah court administrators and policymakers can use these insights to design targeted training programs and competency frameworks for *sulh* officers. Sulh officers themselves will benefit by understanding the specific skills they need to develop and refine to improve mediation outcomes. Additionally, legal educators and trainers can incorporate these findings into curriculum and workshops to better prepare future officers. Finally, families and disputing parties indirectly benefit, as more competent *sulh* officers lead to more effective, empathetic, and fair mediation processes, reducing the emotional and financial burden of unresolved conflicts. Sulh officers serve as mediators who play a crucial role in efforts to improve relationships between disputing parties.

Therefore, as Sulh officers, they must possess specific competencies to ensure the success of Sulh proceedings under their management. The essential competencies required of a Sulh officer include skills in conducting Sulh proceedings and knowledge across various disciplines, encompassing both civil and Islamic law, as well as psychology. Additionally, the Sulh officer's personality is vital in contributing to the successful management of Sulh proceedings. Consequently, Sulh officers should possess competencies in terms of both skills and knowledge, alongside maintaining appropriate personality traits to facilitate successful Sulh proceedings under their supervision. The organization of courses or training for Sulh officers is crucial in helping them enhance their competencies as mediators.

Acknowledgment

Appreciation is extended to the FRGS/1/2024/SSI11/UKM/03/1 project titled "Legal Framework for Online Dispute Resolution (ODR) for Consumers in Goods Sale Transactions" and the Ministry of Higher Education for funding this research.

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Interview

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- Interview with Nor'Azura, Senior Sulh Officer, on 8 December 2023
- Interview with Faiz Aiman, Sulh Officer, on 8 December 2023
- Interview with Tuan Sara Waheeda, Senior Sulh Officer, on 11 December 2023