

Sharing with Churches

11 April 2024

Office of the Public Guardian
Ministry of Social & Family Development

What is Mental Incapacity?



- i. Unable to make decisions for one's self because of an impairment or disturbance of the mind.
- ii. Unwise decision \neq no mental capacity

Mentally incapacitated person ("P") cannot:

- a. Understand the information relevant to the decision
- b. Retain that information
- c. Weigh the information as part of the decision-making process
- d. Communicate his decision

Mental Capacity Framework in Singapore

- i. When one lacks mental capacity, he/she needs someone else to decide on his behalf.
- ii. But certain decisions can only be made by **legally appointed proxy-decision makers**.
- iii. In Singapore, the **Mental Capacity Act (MCA)** provides for the appointment of
 - a. 'Donee' through a Lasting Power of Attorney (LPA) by persons themselves, when they have mental capacity; or
 - b. 'Deputy' by Court, for persons who lack mental capacity ('P') but did not make an LPA.

5 Statutory Principles

- 1 Assumed to have mental capacity unless it is established that he/she lacks capacity.
- 2 Give all practicable help in decision-making.
- 3 An unwise decision does not mean a lack of mental capacity.
- 4 An act or decision must be done in person's best interests.
- 5 The act or decision must be least restrictive for person.

What decisions can a Donee / Deputy make?

PERSONAL WELFARE

He/she can decide on...

- i. Where you should live
- ii. Who you should live with
- iii. Day-to-day care decisions
- iv. Social activities that you may take part in
- v. Handling your letters/mail
- vi. Who you may have contact with



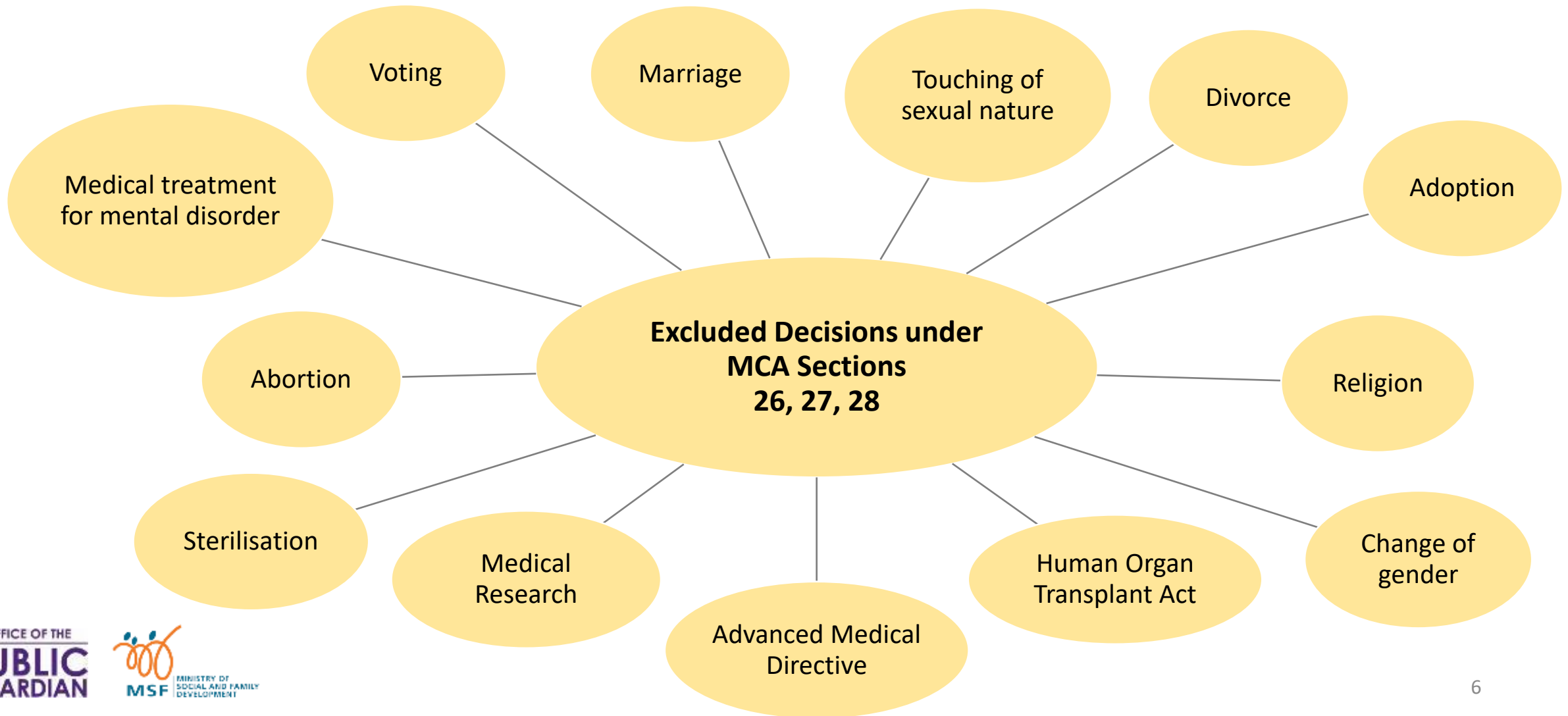
PROPERTY AND AFFAIRS

He/she can help manage your:

- i. Property – buying, selling, renting and mortgaging
- ii. Bank accounts
- iii. Investments, dividends, inheritance or income
- iv. Taxes
- v. Rent, mortgage and household expenses
- vi. CPF monies



Decisions which a Donee / Deputy cannot make



The Lasting Power of Attorney



What is the Lasting Power of Attorney (LPA)?

An LPA is a **legal document** that allows an individual (Donor) with mental capacity to **appoint a person he trusts (Donee)** to make decisions on his behalf, when he **loses mental capacity**.

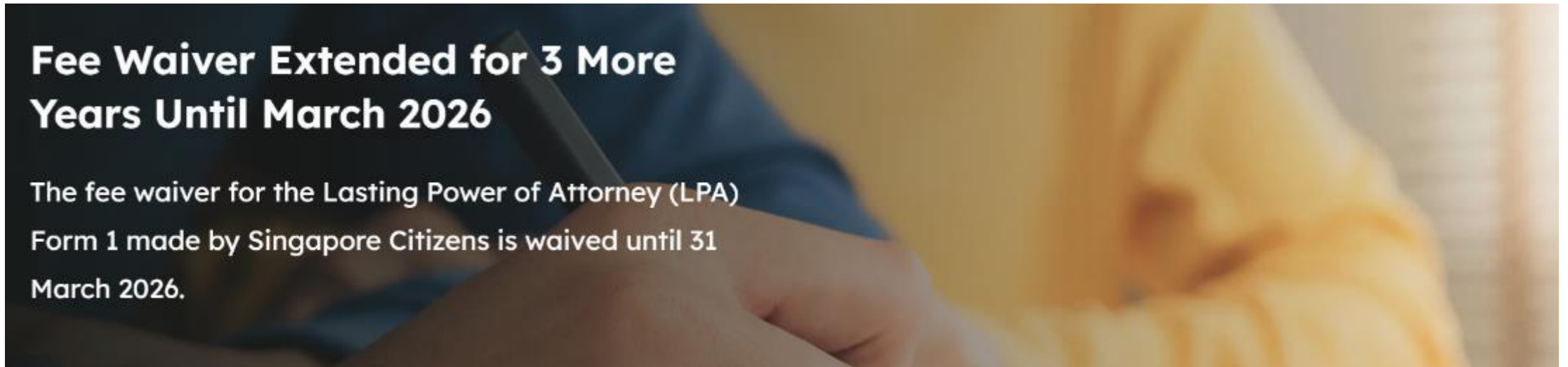
WHO CAN BE A DONEE?

- i. Someone who is at least 21 years old
- ii. A spouse, family members or close friends who can be trusted to act in Donor's best interests
- iii. Licensed Trust Company (for PA matters only)
- iv. A Professional Deputy registered with the Public Guardian



Extension of Application Fee Waiver

- i. Singapore citizens making LPA Form 1 need not pay application fee (\$70) and it will end on 31 March 2026.



- ii. However, fee is payable to LPA Certificate Issuers for their certification services rendered and ranges from \$25 to \$450.

Importance of making an LPA

- i. Allows personal choice of proxy decision maker.
- ii. No hassle or gap as proxy decision maker can automatically assume responsibility should individual be certified as having lost mental capacity.
- iii. Gives family members peace of mind and saves costs, as need not apply to Court for deputyship over individual.



LPAs to be made using OPGO

Since 14 November 2022, all LPAs must be made and submitted via OPGO. Applicants may log in to OPGO via Singpass to do so.

Hardcopy LPA may be submitted under the following exceptional situations, allowable under Section 11(2a) of the Mental Capacity Act:

- a. The Donor / Donee / Replacement Donee is unable to use OPGO due to the Donor's / Donee's / Replacement Donee's physical disability or other circumstances;
- b. OPGO is unavailable;
- c. The Donor does not have an electronic device to receive SMS to create and access his Singpass account/National Digital Identity (NDI);
- d. The Donor / Donee / Replacement Donee is not eligible for a Singpass account/NDI.

The acceptance of the hardcopy LPA is subject to the Public Guardian's approval.

Applying for an LPA Form 1



Form 1

- Up to 2 Donees and 1 Replacement Donee.
- Standard set of powers options.

Form 2

- Allows more than 2 Donees or 1 Replacement Donee
- If instructions on powers need to be more specific
- Requires a lawyer to help draft.



Certificate Issuer (CI) prescribed:

- Accredited GP
- Psychiatrist
- Practicing lawyer



1

Donor drafts LPA online in OPGO and send to Donee

2

Donee accepts appointment online and Donor notified

3

Donor meets Certificate Issuer (CI) in person to execute LPA.

4

CI certifies and submits LPA on Donor's behalf online

7

Donor/Donee can access LPA online anytime anywhere

6

LPA auto- registered after mandatory 3 week period

5

LPA auto- accepted after passing system validation checks



How should the Donees act?



JOINTLY

- i. All decisions must be agreed by both Donees.
- ii. If one Donee's appointment is terminated, both Donees cannot act.



JOINTLY AND SEVERALLY

- i. Either Donee can make decisions.
- ii. If one Donee's appointment is terminated, remaining Donee may continue to act.

What happens if donor changes the mind after LPA registered?

- i. Donor may revoke LPA if **he/she has mental capacity** to do so
- ii. Donor must **notify Donee(s)** about the LPA cancellation (to prevent Donee(s) from using the LPA in the event Donor loses capacity)
- iii. Donor must **notify Public Guardian** of intent to cancel LPA and submit following:
 - a. Completed revocation form;
 - b. Revocation fee of \$30; and
 - c. Original hardcopy LPA and any office copy (if any).

Events which terminate LPA or revoke donee's powers

Death of Donor or Donee

Donee formally disclaims appointment

When one of 2 joint Donees cannot act, joint doneeship revoked

Donor and Donee divorce, appointment of Donee terminated unless LPA otherwise specifies

Donee loses mental capacity

Donor/Donee become bankrupt (only 'Property & Affairs' powers revoked)

When can Donee use LPA and transact on Donor's behalf?


- i. LPA can only be used **when Donor loses mental capacity** and has been medically assessed to be incapable of managing his/her own affairs.
- ii. A **medical report** by any registered medical practitioner is required to state Donor's mental incapacity.
- iii. Should Donor regain mental capacity, Donee must **step aside** to allow Donor to manage his/her own affairs again. LPA remains valid.
- iv. Currently no need to update OPG when Donee transacts on Donor's behalf.

Court Orders

Appointing Deputies



Courts to Decide or Appoint Deputy



Individual
without
capacity, "P"



Mental Capacity
Court

- No proxy decision-maker
- Decisions need to be made on behalf of P

- 1 Appoints proxy decision-maker (deputy) to make decision on P's behalf
- 2 Gives specific order and makes decision for P
- 3 Variation or revocation to be made to court

Personal
Welfare

Property
and Affairs

Appointing a Deputy

- i. For more information on deputyship application, visit www.judiciary.gov.sg/family/deputyship.
- ii. Applicant may refer to 'Orders you can apply for under the simplified process' at www.judiciary.gov.sg/family/file-simplified-deputyship-application#orders to determine if they can go on the simplified process route.
- iii. Applicants may approach the following organisations for guidance for their deputyship application.

Simplified process	Standard process
<p>Movement for the Intellectually Disabled Singapore (MINDS) 11 Jalan Ubi, Blk 3 #01-21 Kembangan-Chai Chee Community Hub Singapore 409074</p> <p>Tel: 6547 8503</p> <p>Email: fcp@minds.org.sg</p> <p>Website: www.minds.org.sg</p>	<p>Community Justice Centre (CJC) 1 Havelock Square State Courts Towers B1-6/7/8 Singapore 059724</p> <p>Tel: 6557 4100</p> <p>Email: help@cjcc.org.sg</p> <p>Website: https://www.cjcc.org.sg/</p>

Responsibilities of a Deputy

A Deputy will have certain duties and responsibilities, including but not limited to:

- i. Follow the statutory principles and **act in the best interests** of the person who lacks capacity according to the Mental Capacity Act.
- ii. Follow the court's directions and **not exceed the scope of authority in the Court Order**.
- iii. Follow the **guidance in the Code of Practice** provided by OPG.
- iv. **Keep proper records** of the decisions or acts Deputy have carried out.
- v. **Submit reports to OPG** as required by the Court Order.

Three Tiers of Assistance for Deputies

Tier 1 Assistance



FAQ



Quick Reference Guide (QRG)



Instructional Videos

Tier 3
1-to-1
appointments

Tier 3 Assistance



Face to Face Assistance

Tier 2
Telephone guidance,
Webinars and Workshops

Tier 2 Assistance



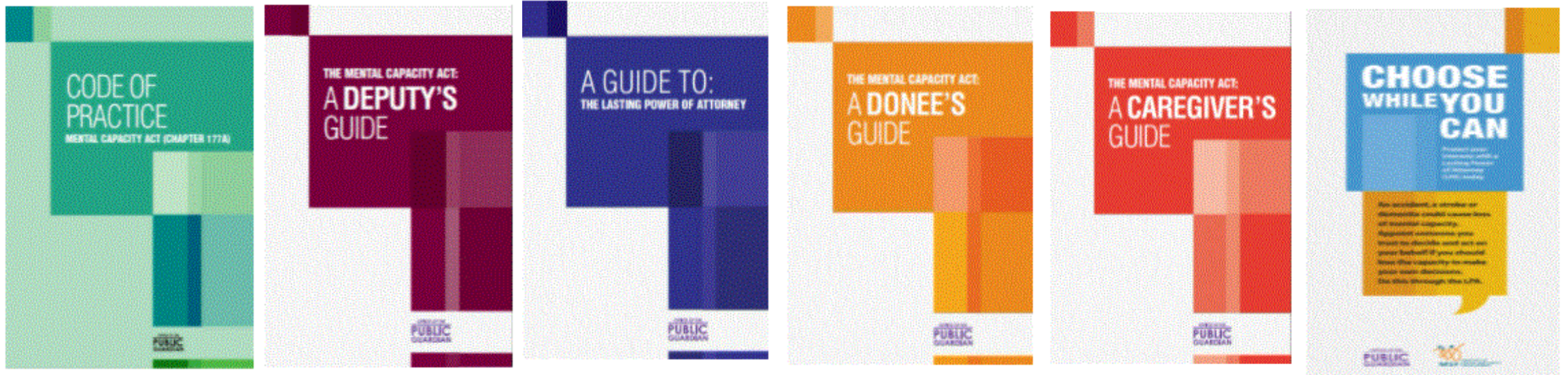
Telephone Guidance

Tier 1
providing resources
e.g. FAQs, QRG, videos

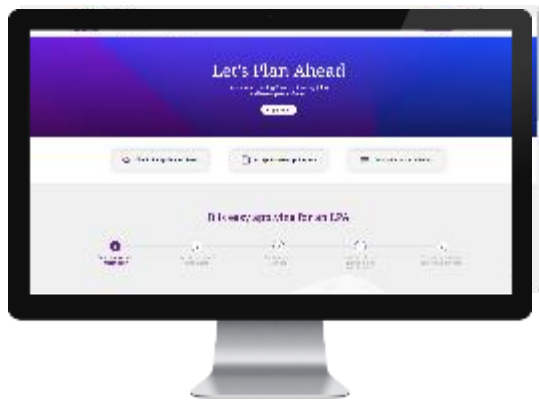
Other Resources

How does the Deputy / Donee learn more about his role?

Refer to the Code of Practice, Deputy Guidebook and other resources available on OPG's website: www.msf.gov.sg/opg

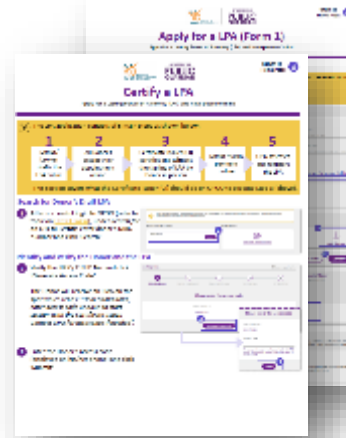


Resources on OPGO



Instructional Videos

- Instructional videos in **4 languages** under **Resources tab**



Quick Reference Guide (QRG)

- Provides **step-by-step guidance** and OPGO filing screens on performing specific transactions in OPGO



FAQ

- FAQ sheets** on OPGO and OPG website. For specific queries, please email **enquiry@publicguardian.gov.sg**.

Other Schemes

Professional Deputies and Donees Scheme (PDD)

- i. Aims to serve individuals who may not have suitable family members or close friends to rely on to be their proxy decision makers. Allows individuals to choose from registered professionals to be their donees or deputies
- ii. Professionals registered under this scheme come from selected professional groups i.e. lawyers, doctors, accountants, allied health professionals, nurses and social workers, and have to pass stringent criteria to be registered as Professional Deputies with OPG.
- iii. More information on Professional Deputies and Donees Scheme and the list of registered Professional Deputies can be found on www.msf.gov.sg/what-we-do/opg/about-PDD-scheme.

List of Registered Professional Deputies/Donees

Applicants are advised to contact the professional deputies/donees to enquire on their professional fees before making an appointment.

Singapore Qualified Lawyers

Name of Professional Deputy	Profession	Address	Email	Contact Number	Areas to cover	Validity of Registration
Au-Yong Kok Keong Kenneth	SG Qualified Lawyer	6 Raffles Quay #10-08 Singapore 048580	Kenneth_au_yong@ramdwong.com.sg	63249193 96734654	Personal Welfare and Property & Affairs	15 Mar 2021 to 14 Mar 2023
Chandra Mohan S/O Rethnam	SG Qualified Lawyer	3 Straits View #06-07, Marina One West Tower, Singapore 018937	Chandra.mohan@rajalitann.com	62320552	Personal Welfare and Property & Affairs	29 May 2019 to 29 May 2023
Chang Yao T'Sung Julian	SG Qualified Lawyer	200 Cantonment Road #14-03 Southpoint Singapore 089763	julian.chang@dominionlaw.com.sg	65337777	Personal Welfare and Property & Affairs	8 Jul 2019 to 8 Jul 2023

About the Professional Deputies and Donees Scheme

The Mental Capacity (Registration of Professional Deputies) Regulations 2018 came into effect on 1 September 2018, allowing professional deputies to act for persons with and mental capacity (referred to as 'P') for remuneration. Professional deputies must be appointed to P.

The Professional Deputies and Donees (PDD) scheme aims to serve individuals who may not have family members or close friends to rely on to be their proxy decision makers.

The role of a professional deputy is an important one, in which the professional deputy must be prepared to make key decisions affecting P's property, affairs and personal welfare. Professionals registered under this scheme come from selected professional groups (i.e. lawyers, doctors, accountants, allied health professionals, nurses and social workers).

How are Professional Deputies appointed?

- Professional deputies can apply to Court to act for individuals who have lost mental capacity.
- Individuals with mental capacity can also choose to make a Lasting Power of Attorney (LPA) to appoint a professional deputy acting as donee, as part of their pre-arranging for future contingencies.

More Information on the Professional Deputies Scheme

- Mental Capacity (Registration of Professional Deputies) Regulations 2018
- The Public Guardians' Terms and Conditions for Registration as a Professional Deputy
- Code of Practice for Professional Deputies
- FAQs - General
- FAQs - Registered Professional Deputy

Have a question?

Please direct your enquiries to:



Office of the Public Guardian

20 Lengkok Bahru, #04-02, Family@Enabling Village,
Singapore 159053



1800 111 2222



enquiry@publicguardian.gov.sg

Thank you