

NEW CERTIFICATION COURSE TO TRAIN PROFESSIONALS WHO WISH TO REGISTER AS PROFESSIONAL DEPUTIES

1. The Ministry of Social and Family Development (MSF) is launching a certification course to train professionals who wish to register as professional deputies and donees.
2. The Mental Capacity (Amendment) Act 2016 introduced the roles of professional deputies and donees to enhance support for seniors with little or no family support in the community. It allows for specified groups of professionals to perform this role for a fee. All registered professional deputies can also act as professional donees. A professional donee is appointed by an individual before he has lost mental capacity, while a professional deputy is appointed by the court for an individual who had not appointed a donee prior to losing mental capacity.
3. The newly launched certification course is a compulsory component of the registration framework for professional deputies. The course is to ensure professional deputies and donees know their responsibilities, and are trained to carry them out in the best interests of the person who has lost mental capacity.
4. The certification course was developed by MSF in collaboration with the Singapore University of Social Sciences (SUSS). The course can cater for up to 25 participants in the first run, which will commence in July 2018 and take place over 4 days.
5. The MSF's Office of the Public Guardian (OPG) has consulted representatives from various organisations across the legal, medical, accounting, and social service sector, to develop a robust registration framework for professional deputies, while ensuring that the necessary safeguards are in place to protect vulnerable persons who have lost mental capacity.
6. The certification course will be open to lawyers, accountants, healthcare, and social service professionals who are registered under the respective professional bodies. Professionals must also meet a set of criteria to qualify for registration as professional deputies. For example, they must have relevant experience with mental capacity cases, or at least five years of experience in their respective fields of work. The full list of criteria can be found on the SUSS website.

7. Professionals must pass the certification course as a pre-requisite and meet the qualifying criteria to be registered by the Public Guardian as a professional deputy. They can then apply to the Family Justice Courts to be appointed as professional deputies, or be appointed as professional donees by persons making their Lasting Power of Attorney (LPA).

8. Registration for the inaugural run of the certification course opens on 21 May 2018 and will close on 10 June 2018. Interested professionals can visit the SUSS website at <http://www.suss.edu.sg/CET/Pages/Professional-Deputyship-Programme.aspx> for more information.

FREQUENTLY ASKED QUESTIONS

1. When and why was the Professional Deputies and Donees scheme conceptualised?

Under the Mental Capacity Act (MCA), individuals can currently appoint donees through the Lasting Power of Attorney (LPA), who can make decisions on their behalf, should they lose mental capacity in future. For individuals who did not make an LPA and have lost mental capacity, family members will need to apply to Court to be appointed as their deputies.

Individuals, especially seniors, who wish to make an LPA, but do not have a strong family network to depend on, may face difficulties appointing persons they trust to make decisions and act for them should they lose mental capacity in the future. These seniors could be single or widowed, or who do not have children.

To better support this group of seniors, MSF is working to enable the community to step up to fill such gaps. The MCA was amended in 2016 to strengthen safeguards in the Act to better protect persons who have lost mental capacity. One key amendment was the introduction of the concept of professional deputies and donees, who can provide deputyship or doneeship services for remuneration.

2. What is the difference between a professional deputy and professional donee?

A professional deputy is appointed by the Family Justice Courts through a Court order for a person who has lost mental capacity, whereas a professional donee is appointed in an LPA by a donor who still has mental capacity.

Professional deputies and donees must not be related to the person whom they are appointed to act for.

3. What are the criteria for registering as a professional deputy?

Apart from passing the certification course, professionals must meet additional criteria, which includes:

- (i) Relevant experience with mental capacity cases, or a continuous period of at least five years of experience in their respective fields of work
- (ii) No financial embarrassment (e.g. not undischarged bankrupts and must have a good credit rating)
- (iii) Not be convicted of certain criminal offences such as crimes against a person or public order, or be the subject of a civil judgement involving breach of fiduciary duties

The full list of criteria can be found on the course registration page at <http://www.suss.edu.sg/CET/Pages/Professional-Deputyship-Programme.aspx>.

4. What will the certification course cover?

The certification course comprises three separate modules. All prospective professional deputies must undergo a compulsory general module that covers the roles and responsibilities of a professional deputy, including professional conduct and ethics, and submission of annual reports.

The Property & Affairs (PA) module will equip prospective professional deputies to handle financial matters of a person who has lost mental capacity ("P"), to ensure that P's financial resources are properly managed and material needs are met. The Personal Welfare (PW) module will guide prospective professional deputies on making decisions on P's personal welfare so that P's needs and preferences are met.

Prospective professional deputies must complete the respective module in order to be granted either PA or PW powers, or complete both modules in order to be granted both types of powers.

5. How much will professional deputies charge for their services?

For professional deputies, the Court will determine if the proposed quantum of fees charged is reasonable.

For professional donees, as they are appointed by the donor when he has mental capacity to decide who he wishes to appoint, the fees would be charged according to a private arrangement between the professional donee and the donor. The donor decides how much he wants to pay the professional donee for the services.

6. How many cases can each professional deputy take on?

The professional deputy has the choice to take on the number of cases he or she wishes to. The Court will assess each application and grant professional deputyship powers accordingly.

7. When and how can members of the public engage professional deputies to be their donees?

When the scheme is rolled out by the end of 2018, a list of registered professional deputies will be published on the OPG website so that members of the public can approach their preferred professional to enquire about their services.

8. Why is the first run of the course only open to up to 25 professionals? When will the next run be held?

The Professional Deputies and Donees scheme aims to address the needs of seniors who are without family support. These seniors may wish to make an LPA, but have limited options to appoint donees. For seniors who have lost mental capacity and are not able to make an LPA, the scheme ensures they are supported in their decision-making.

MSF will continue efforts to raise awareness of making an LPA early, and to encourage individuals to involve their family members in such decisions. In 2017, more than 95% of donees appointed in LPAs were the donor's immediate or extended family. MSF is therefore training up to 25 professional deputies for a start. We will monitor the demand for such services, as well as the uptake of professionals over the next few years to calibrate the pool of professional deputies to meet demand.

9. What safeguards are in place to ensure that professional deputies act in the best interests of the person who has lost mental capacity and do not charge excessively for their services?

As part of the deputyship application, professional deputies would have to submit a schedule of the tasks they intend to carry out for the person who has lost mental capacity and the fees to be charged for each task. The Court would determine whether the fees are reasonable before granting the court order.

Professional deputies are required to submit an annual report to the Public Guardian (PG) to account for all decisions and expenses incurred on behalf of the person who has lost mental capacity.

Under the registration framework for professional deputies, PG has the ability to cancel the registration of a professional deputy if certain events, such as bankruptcy, occurs.

10. How does OPG ensure that professional donees act in the best interests of persons who have lost mental capacity?

To safeguard the interests of the vulnerable, OPG conducts investigations into alleged violations of provisions under the Mental Capacity Act. This includes complaints about the way in which donees and deputies are exercising their powers.

OPG takes all complaints seriously, and will investigate further and take action against any donee or deputy who is found not to have acted in the best interests of the person who has lost mental capacity.

11. What other services are there to support such seniors with little or no family support?

MSF continues to support efforts for seniors to age in place at home and in the community, and will readily step in to ensure that the best interests of seniors are protected.

The Community Kin service was announced in November 2017 to enable Voluntary Welfare Organisations (VWOs) to do more to support seniors with declining mental capacity and do not have family support. Under the Community Kin service, VWOs can apply for a Court order allowing them to manage some of their clients' finances, and administer payment to service providers who meet their client's daily healthcare and household needs.