

FREQUENTLY ASKED QUESTIONS (FOR PROFESSIONALS)

Eligibility

1. Can I be the professional deputy/donee for my family member?

No, professional deputies and professional donees must not be related by blood or marriage to the person whom they are appointed to act for.

2. What are the criteria for registering as a professional deputy/donee?

The registration criteria is as follows :

- (i) Being above 21 and a Singapore Citizen or Permanent Resident;
- (ii) Being an eligible professional who has practised in his profession for a continuous period of at least 5 years immediately preceding the application for registration or who has been appointed as a deputy by the court under the Mental Capacity Act (MCA) or who has represented another individual in relation to that individual's appointment as a deputy under the MCA;
- (iii) Intending to provide services of a professional deputy in the course of employment, or as part of the practice of his profession;
- (iv) Not financially embarrassed i.e. not a bankrupt or discharged bankrupt and no pending bankruptcy proceedings against him;
- (v) Having a credit rating of 'BB' and above from the Credit Bureau (Singapore);
- (vi) Having completed and passed (not more than 6 months before the date of the individual's application for registration), training course(s) conducted by any person appointed by the Public Guardian relating to (a) general duties and responsibilities of a professional deputy, (b) relating to the making of decisions on P's personal welfare and (c) relating to the making of decisions on P's property and affairs;
- (vii) Not having been convicted of a specified criminal offence in Singapore or an offence similar to a specified offence elsewhere and does not have any pending criminal proceedings against him or her in respect of the specified offence or similar foreign offence namely offences against a person, public order, criminal misappropriation, criminal breach of trust cheating, theft, extortion or any other offence involving fraud or dishonesty;
- (viii) Not having had a judgment entered against him or her or a claim made against him or her in any civil proceedings (whether in Singapore or elsewhere) involving any allegation of deceit, fraud or fraudulent misrepresentation, breach of fiduciary duty or breach of trust;
- (ix) Not subject to any disciplinary proceedings by professional body of applicable to his or her profession, and no finding of professional misconduct against him or her by that professional body;
- (x) No court orders have been made to revoke or suspend his powers as a donee or deputy, due to actions that would not be in the best interests of the person being acted on behalf of; and

- (xi) PG's satisfaction with individual's record of compliance with any requirement imposed by or under the MCA or regulations which are applicable to the individual.

12. What is the application cost to be registered as a Professional Deputy/Donee?

The application fee is \$550. Do note that fees are non-refundable should you decide to withdraw your application or if your application for rejected.

Deputyship application process

13. What is the cost (i.e. legal professional fees, disbursements, court filing fees) of applying for an interim order for authority to do searches and gather information from relevant agencies in respect of P's assets?

The cost of the court application is dependent on the amount of documents filed and legal fees. Please seek your own legal advice.

13 If P has properties overseas, does the Lasting Power of Attorney (LPA) or court order cover authority to deal with these properties?

An LPA registered in Singapore or a Court Order made in Singapore is valid for use in Singapore. You may wish to check with the third party foreign institution that you will be transacting with, on whether they would accept a foreign-registered LPA or Court Order from another country. You may also wish to seek legal advice on the use of a foreign-registered LPA/ Court order in that country.

14 Can professional deputies act jointly or jointly and severally? Does this remove the need for successor deputy?

Yes, professional deputies can decide if they prefer to act jointly or jointly and severally. This can be specified in the court application. A successor deputy is required to be appointed in all applications made by professional deputies.

15 Can a professional deputy act pro bono for a client?

The professional deputy can be appointed as the professional deputy for the client and inform the Court that they will not be charging for their professional services.

Referral of cases

16 Will OPG help to publicise my services as a professional deputy?

The list of active professional deputies (for personal welfare and/or property & affairs) will be published on the OPG website. Professionals from various agencies or family members may refer to the list and contact you.

Exercising powers

17 As a professional donee, how do I know if the donor has lost mental capacity and what must I do thereafter?

As a professional donee, it is good practice to keep in regular contact with the donor. You will need to have a medical report stating that the donor has lost mental capacity before you can exercise your powers under the LPA to manage his matters.

18 Where can I go to get the relevant support if I am given power to deal with P's Personal Welfare (PW) and Property and Affairs (PA) but need help to settle P's PA or PW matters?

Before taking on the role, you should consider the existing needs of the donor/ P, and the resources required to meet the needs. You can consider having a joint appointment with another professional deputy or professional donee (as the case may be) who can complement your skillset. You may buy services to help you carry out your duties as a professional deputy or professional donee but you must decide on how to carry out those duties before delegating the actual work to someone else under your supervision.

19 Other than managing P's affairs, what are the other things that I should do?

- Ensure that there is a substitute (successor deputy/replacement donee) who can step in to act for P if you are unable to continue to perform such duties;
- Avoid any conflict of interest in acting for P;
- Keep clear and complete accounts of transactions carried out on behalf of P and records showing how transactions are in P's best interests;
- Manage workload for multiple deputyship appointments and keep records of the time spent on each case, to help you in deciding whether to take on a new case;
- Maintain contact with P to ensure that level of care provided matches needs.

20 As a professional donee, how often do I need to visit the donor?

Prior to LPA activation

There is no prescribed number of times for you to visit the donor, prior to him losing mental capacity.

After the activation of LPA

As a professional donee, you are paid for your services. As such, you should get regular updates on the donor's progress. You will need keep records of the frequency of your visits to the donor in administering your duties.

21 As a professional deputy for P who has NOKs, what can I do if NOK questions or does not agree with the rationale of my decisions for P.

As a professional in your field of work, you would have the expertise / knowledge to perform your role. It is advisable for you to work with the NOK and understand their concerns so that P's well-being and interests are served. Ultimately, you are the appointed proxy decision-maker for P.

22 If I as a professional deputy will be absent for a prolonged period of time e.g. medical leave, what should I do?

Inform your successor deputy to act in the interim. You will need to discuss with the successor deputy on the work/decisions that you have done/made thus far and hand over the work from that period. It is a good practice to discuss the case with the successor deputy as early as possible to facilitate the transition. You must also notify OPG and the Court that your successor deputy will be providing interim cover for a specified period.

23 Who should update the successor deputy if the professional deputy named in the court order is transferring the case to the successor deputy for management?

The professional deputy must provide an update to the successor deputy at the point of handover.

24 How does the third party know whether the professional deputy named in the Court Order, is acting on behalf of P or the successor deputy?

The professional deputy named in the Court Order is the person acting on P's behalf unless a successor deputy has stepped in to act for P during the original appointed professional deputy's temporary leave of absence.

Under that circumstances, the professional deputy will have to inform OPG of the period of his absence and provide the successor deputy with a notice so that the latter can transact with the third party agency.

Third parties can refer to the OPG website to determine the validity of the professional deputy's registration.

Remuneration

25 Do I need to declare my professional deputyship fee to IRAS?

Yes, as it is a form of income.

26 What if I want a higher fee after P's loss of mental capacity?

You can only revise the fee if:

1. As a professional deputy appointed by the Court, you apply to the Court to vary the court order to reflect the fee revision. This is subject to the Court's decision.
2. As a professional donee where your powers under an LPA have been activated upon your client's loss of mental capacity, you apply to court for an order allowing the increase in the fees.

Liability

27 Will MSF help the professional deputy/ donee to obtain insurance coverage?

No. You may separately contact the insurance companies that provide professional indemnity insurance for further discussion if you intend to obtain insurance coverage for professional deputyship work.

Exemption

If I am currently receiving remuneration for my services as a deputy appointed by the court or donee under a LPA, do I need to be registered as a professional deputy to continue with such arrangements for remuneration?

Individuals who are currently receiving remuneration for provision of deputyship or doneeship services through court orders or private arrangements made prior to 1 September 2018 are exempted from registration as a professional deputy pursuant to the Mental Capacity (Exemption from Registration as Professional Deputy) Order 2018.

What if I wish to enter into new arrangements for remuneration after the commencement of the Mental Capacity (Registration of Professional Deputies) Regulations 2018 on 1 September 2018?

Individuals who wish to enter into new arrangements for remuneration after 1 September 2018 must first be registered as professional deputies. They must be qualified professionals falling within the prescribed classes of professionals and satisfy all other prescribed registration criteria under the Regulations.