

FREQUENTLY ASKED QUESTIONS (FOR GENERAL PUBLIC)

General

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

Under the Mental Capacity Act (MCA), individuals can appoint donees through a Lasting Power of Attorney (LPA), to 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 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 the professional deputies and donees, which allows registered professionals to 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 to act for a person who has lost mental capacity, while a professional donee is appointed under an LPA by a person (a donor) who still has mental capacity to act for the donor in the event the donor loses mental capacity in the future.

Professional deputies and professional donees must not be related by blood or marriage to the person whom they are appointed to act for.

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

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

For professional donees, as they are appointed by the donor when he has mental capacity, the donor and professional donees will mutually agree on the fees to be charged for the services.

4. How many cases can each professional deputy or a professional donee take on?

The professional deputy or professional donee can decide on the number of cases he or she wishes to take on.

The Court will assess each application and grant professional deputyship powers accordingly.

5. When and how can you engage professional deputies to be your donees?

A list of registered professional deputies/donees will be published on the OPG website in due course and you can approach your preferred professional to enquire about their services.

6. When will the next run of the certification course be held?

We will provide details on the next certification course when available.

7. What safeguards are in place to ensure that professional deputies act in your best interests and do not charge excessively for their services when you lose mental capacity?

As part of the application to court for professional deputyship appointment, professional deputies would have to submit a schedule of the tasks they intend to carry out for you, should you lose mental capacity, and the fees to be charged for each task. The Court will 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 while managing your matters.

Under the registration framework for professional deputies, PG has the ability to cancel the registration of a professional deputy if required.

8. How would a Professional deputy (PD) and professional donees be referred to assist persons lacking mental capacity?

Third parties, such as social service agencies (SSAs) and nursing homes may contact a professional deputy where there is no next of kin.

9. How does OPG ensure that professional donees act in your best interests after you lose mental capacity?

Under the MCA, PG can commence investigations into alleged violations by donees or court-appointed deputies, which includes looking into 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.