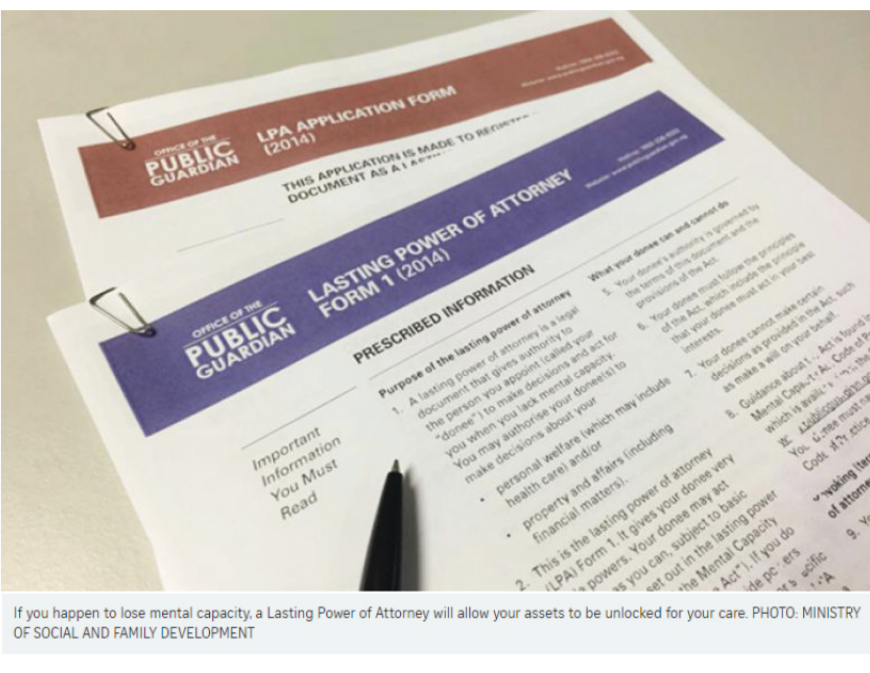


# When your mind doesn't work like it used to



If you happen to lose mental capacity, a Lasting Power of Attorney will allow your assets to be unlocked for your care. PHOTO: MINISTRY OF SOCIAL AND FAMILY DEVELOPMENT

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## The Lasting Power of Attorney is far too valuable to pass up — and isn't just for the elderly

Bryant Chan

While she may be renowned among the legal community for the countless families she has helped, Ms Low Seow Ling hates that she could not help her own when they needed it the most.

The associate director of Eden Law Corporation constantly mentioned the importance of getting a Lasting Power of Attorney (LPA) at family gatherings, but her advice went unheeded — until it was too late.

A sudden stroke a few years ago saw one of her relatives being rushed to the intensive-care unit, where he lapsed into a coma.

Had he had an LPA before losing mental capacity, access to his insurance funds and other assets would have been relatively simple.

Instead, his family was embroiled in a long and tedious process of appointing a deputy to access his assets — costing them thousands of dollars in legal fees.

### IN SAFE HANDS

Ms Low often shares this anecdote to those who ask her if doing an LPA is necessary, to illustrate how accidents or illnesses can strike suddenly.

Still, many Singaporeans are in the dark on what an LPA even is.



The Ministry of Social and Family Development holds regular outreach sessions to educate the public on the Lasting Power of Attorney. PHOTO: MINISTRY OF SOCIAL AND FAMILY DEVELOPMENT

In short, an LPA is an important and convenient legal tool that allows you, the donor, to appoint a trusted person (or several) as donee(s) to act and make decisions on your behalf, in the event that you lose mental capacity.

Without an LPA, this process immediately becomes more difficult. Most may mistakenly believe that family members are automatically granted the right to make legal decisions on your behalf — but this is not the case.

Family members who are not appointed donees will likely face difficulties trying to make care arrangements, as well as manage bank accounts and properties.

They will have to apply to court to be legally appointed as your deputy, before they are allowed to make decisions and act on your behalf.

But the deputyship application process takes much more time than the LPA application process, and will incur significant legal fees — both valuable resources that could be better spent on your care.

As Ms Low points out, her firm charges \$150 to draw up an LPA, while her relative's legal fees set his immediate family back by more than \$5,000.

Instead of engaging a lawyer, you could also fill up the LPA Form and visit an accredited medical practitioner or psychiatrist to witness and certify your application.

### LPA FORM 1 VS FORM 2: WHAT'S THE DIFFERENCE?

Donees can act in two areas: (i) personal welfare and (ii) property and affairs. These two areas generally encompass making care arrangements and managing monies.

LPAs come in two forms: Form 1 and Form 2. Form 1 is the standard version that allows donors to grant general powers with basic restrictions to their appointed donees. Form 2 is more specialised, and is for donors who wish to grant customised and specific powers to their donees.

#### Use Form 1 if you wish to:

- Have up to two donees and one replacement donee
- Give your donee(s) generally wide powers and not get a lawyer
- Restrict your donee(s) in making decisions for one property

#### Use Form 2 if you wish to:

- Have more than two donees and more than one replacement donee
- Limit powers given to donee(s) and get a lawyer to fill in these requirements
- Restrict your donee(s) in making decisions for more than one property

If you happen to lose mental capacity at any point, an LPA will allow your assets to be unlocked for your care, and handled by a trusted proxy decision maker of your choice.

The number of LPA applications has risen in recent years, but the majority of Singaporeans still have no contingencies, should they lose their mental faculties.

"Many people tend to think that they won't lose their mental faculties for a long time," says Ms Chia Yong Yong, owner of Chia Yong Yong Law Corporation and former Nominated Member of Parliament. "That's why there's no urgency on their part to do up an LPA."

Some may still be confused as to how an LPA differs from a will. Most people mistakenly believe that if they have drafted a will, an LPA is unnecessary. In fact, an LPA takes effect in the event that the donor loses mental capacity, while a will only operates after the donor's death.

### THE RIGHT PERSON FOR THE JOB

But one of the most significant barriers preventing people from drafting an LPA is the absence of a suitable family member to appoint as a donee.

This doesn't just apply to those who are childless or single. Very often, Ms Chia says, familial conflicts prevent a donor from appointing their next-of-kin as a donee.

"I've known of cases where siblings have fought one another to be deputies of their parents' estate, or where someone has had to square off against their in-laws to make decisions for their spouse," she says.

This is where the Professional Deputies and Donees (PDD) scheme comes in. The Office of the Public Guardian (OPG) launched the scheme in September last year to allow registered professionals in the community to act as donees in the event that no suitable next-of-kin is available.



In the event that a donor has no suitable next-of-kin, they can make use of the Professional Deputies and Donees Scheme to act as a donee instead. PHOTO: MINISTRY OF SOCIAL AND FAMILY DEVELOPMENT

Aside from meeting the stringent eligibility criteria, aspiring deputies have to attend a certification course and pass an examination before they can be registered as professional deputies. Only select professions, such as lawyers, social workers, accountants and medical practitioners are eligible to attend the course.

As one of the deputies registered under the PDD scheme, Ms Chia sees it as a way for her to merge her social service work with her legal expertise — going beyond the typical channels of outreach and advocacy.

"It's a means for me to make a more immediate difference in someone's life," she says. "It makes me happy when people sign an LPA with the benefit of proper advice."

And while many may not be fortunate enough to get a second chance, there is perhaps no better persuasion than a near-death experience.

Ms Low's story actually has a happy ending. A few months after his stroke, her relative miraculously emerged from his coma, and was discharged from the hospital shortly after.

Needless to say, as soon as he was able, an LPA was first on his list of priorities.

The list of registered deputies under the PDD scheme can be found at [www.msf.gov.sg/opg/Pages/About-PDD.aspx](http://www.msf.gov.sg/opg/Pages/About-PDD.aspx)

For further information about the LPA, visit [www.msf.gov.sg/opg](http://www.msf.gov.sg/opg)

### MAKING AN LPA FORM 1

Getting an LPA drafted is much simpler than PDD might think. An LPA Form 1 can be completed in three simple steps:

#### Step 1: Appointing your donees

Make sure you choose your donees wisely, and decide what powers to grant them.

If you choose to appoint more than one donee for the same power, decide if they can make decisions alone (jointly and severally), or they must act together with all other donees (jointly).

#### Step 2: Issuing the certificate

See an LPA Certificate Issuer — this is a critical safeguard to ensure that a donor has mental capacity to make an LPA and does not make an LPA under undue influence or duress.

There are three groups of professionals who can issue an LPA certificate, namely accredited medical practitioners, lawyers and psychiatrists.

The 10 most visited accredited medical practitioners charge an average of \$50 for their services, but fees can range from \$25 to \$80.

From now until Aug 31, 2020, Singapore citizens making an LPA Form 1 will have the administrative fee waived, but they will still have to pay their LPA Certificate Issuer their respective fees.

#### Step 3: Submitting your LPA

Submit your completed LPA application to the OPG by post. The OPG will process the LPA and return it to you after it has been successfully registered.

The LPA Form 1 can be found at [www.msf.gov.sg/opg](http://www.msf.gov.sg/opg)



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