

Overview

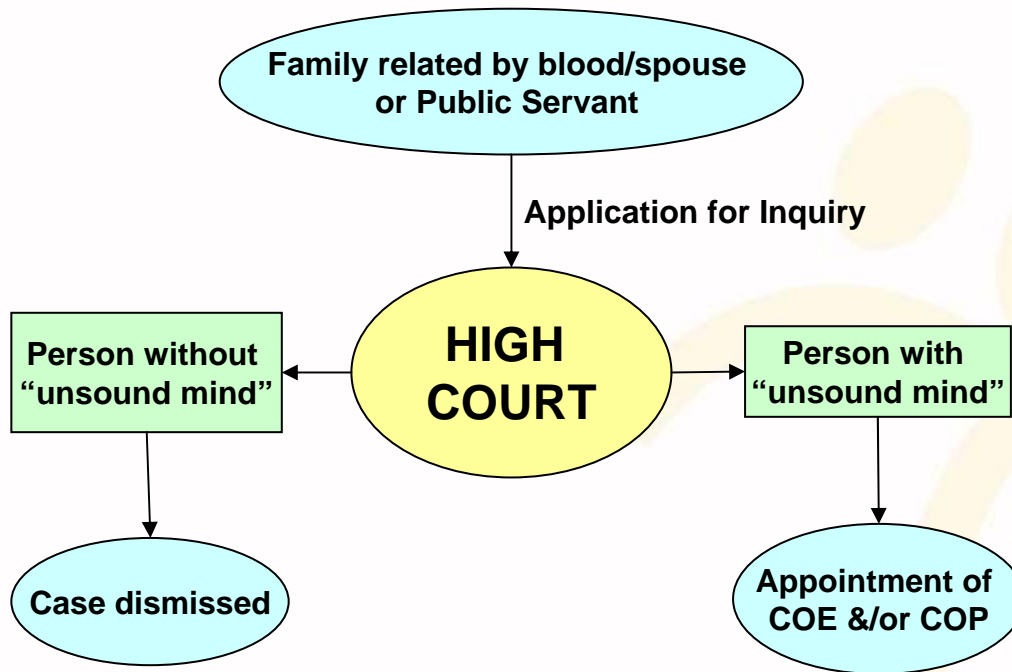
Mental Capacity Act 2008

26 September 2009

Slide No. 1

Prior to Mental Capacity Act

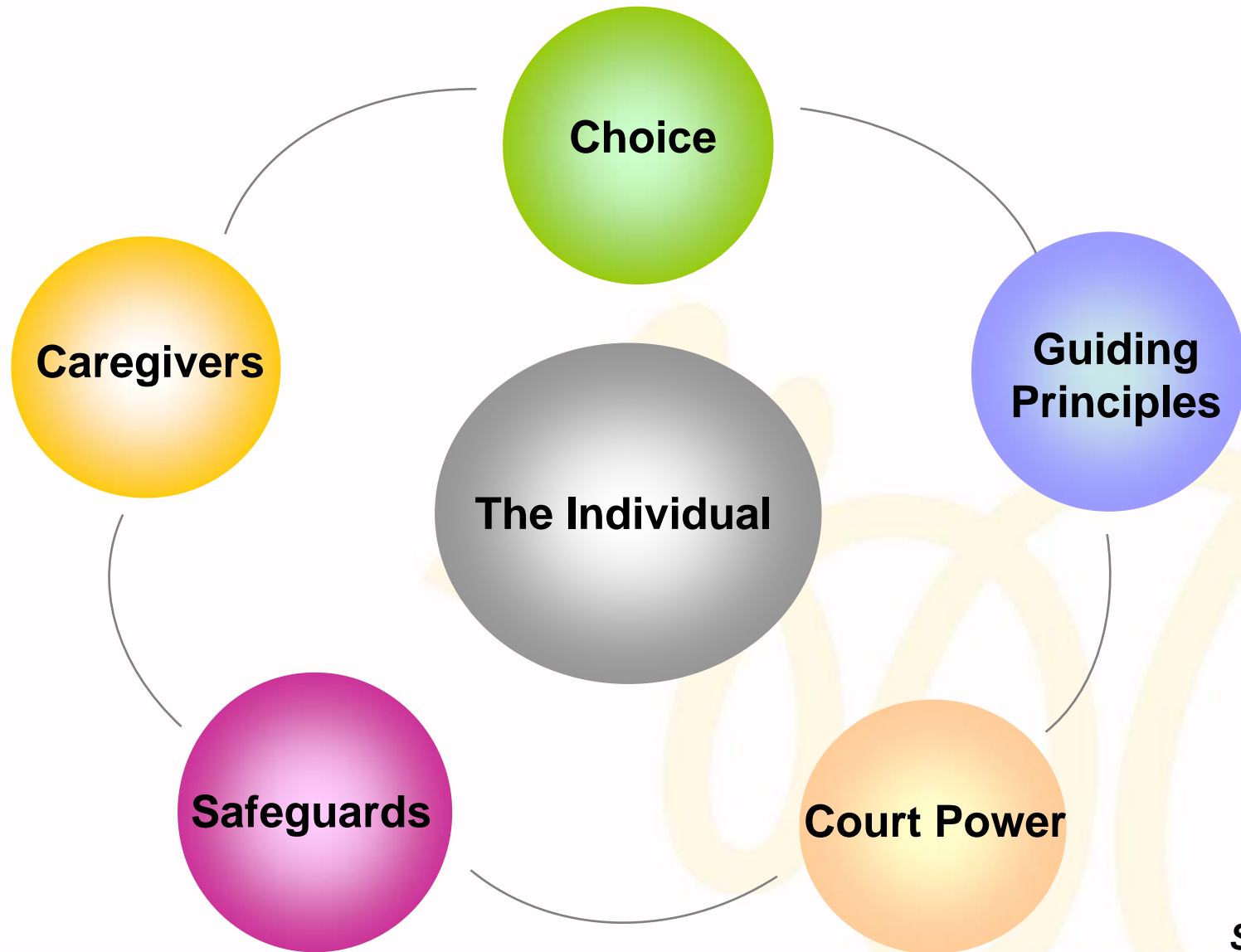
Under Mental Disorder & Treatment Act



- Proxy decision maker is appointed **after** person **loses** mental capacity
- Binary approach
 - Person either has sound or unsound mind
 - Does not take into account fluctuating capacity

Slide No. 2

The Mental Capacity Act



Choice



Choice

Plan Ahead

- You can now choose someone you trust to act and make decisions on your behalf if and when you lack mental capacity in the future

Lasting Power of Attorney

- General or specific matters relating to :
 - ✓ personal welfare issues
 - ✓ property and affairs issues
 - ✓ or both
- Who can be donees?

Care Plan for Intellectually Disabled Child

- Parents of an ID child can apply to the court to appoint a deputy to arrange for the child's future care for when the parents have passed on or lose their mental capacity.

Choice



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Guiding Principles



Guiding Principles

- ✓ ***Assumption Of Capacity***
 - A person must be assumed to have capacity
- ✓ ***Take all Practicable Steps to help person to make a decision***
- ✓ ***Unwise Decision ≠ Incapacity***
 - Not to be treated a person as unable to make a decision merely because of an unwise decision made
- ✓ ***Best Interests***
 - An act or decision made on behalf of the person, must be done in his best interest
- ✓ ***Less Restrictive***
 - In acting or making a decision for a purpose, consider if it can be achieved in the way that is less restrictive of the person's rights & freedom

Slide No. 6

Court Powers



Court Power

- ✓ **Lasting Power of Attorney**
 - Direct donees to produce reports
 - Authorise the making of gifts
 - Revoke LPA

- ✓ **Make Declaration** Whether person has or lacks capacity

- ✓ **Appoint Deputies**
 - Give powers on specific matters or general powers to specific property & affairs or personal welfare matters

- ✓ **Make Court Orders**
 - Give directions
 - Make Wills
 - Vary Orders

- ✓ **Revoke Deputyship**

Safeguards

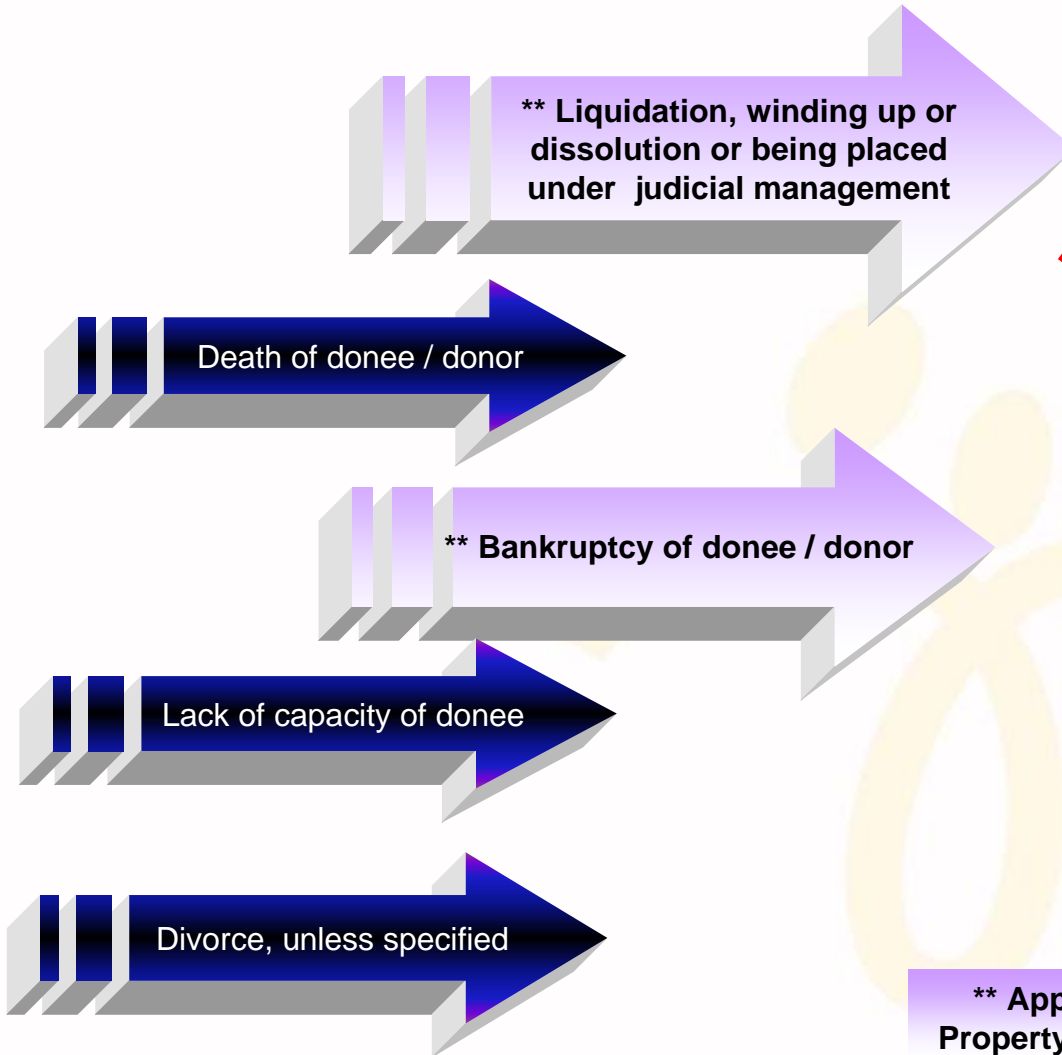


Safeguards

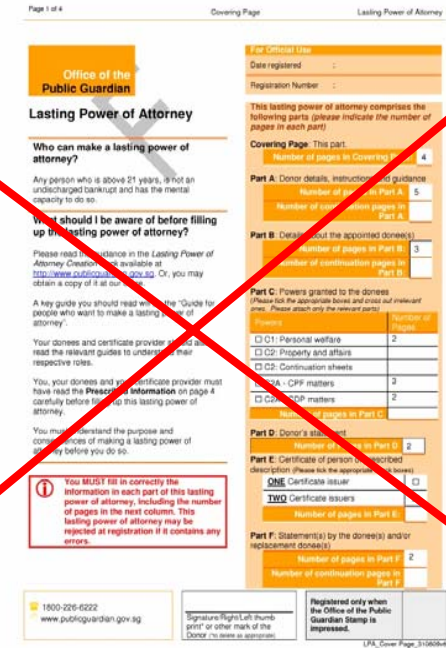
- ✓ ***Specific restrictions on the powers of donees***
 - Powers commence only when person loses capacity
 - cannot make decisions on any life sustaining treatment or treatment to prevent serious deterioration
 - cannot give or refuse consent for treatment
 - cannot execute a will, make or revoke CPF & insurance nominations

- ✓ ***Events triggering revocation of donees' powers***
 - Death
 - Divorce
 - Loss of Donee's capacity
 - Bankruptcy of Donee

Lasting Power of Attorney – Events leading to Revocation



**** Applicable only to
Property & Affairs matters**



Page 1 of 4 Covering Page Lasting Power of Attorney

Office of the Public Guardian

Lasting Power of Attorney

Who can make a lasting power of attorney?
Any person who is above 21 years, is not an undischarged bankrupt and has the mental capacity to do so.

What should I be aware of before filling up the lasting power of attorney?
Please read the guidance in the Lasting Power of Attorney Creation Kit available at <http://www.publicguardian.gov.sg>. Or, you may obtain a copy of it at our office.

A key guide you should read when making a lasting power of attorney is the "Guide for people who want to make a lasting power of attorney".
Your donees and your certificate provider should read the relevant guides to understand their respective roles.
You, your donees and your certificate provider must have read the **Prescribed Information** on page 4 carefully before filling up this lasting power of attorney.
You must understand the purpose and consequences of making a lasting power of attorney before you do so.

You MUST fill in correctly the information in each part of this lasting power of attorney, including the number of pages in the next columns. This lasting power of attorney may be rejected at registration if it contains any errors.

1800-226-6222
www.publicguardian.gov.sg

Registered only when the Office of the Public Guardian Stamp is impressed.

LPA_Cover_Page_310604

For Official Use	
Date registered	
Registration Number	
This lasting power of attorney comprises the following parts (please indicate the number of pages in each part)	
Covering Page. This part:	4
Part A: Donor details, instructions and guidance	5
Part B: Details about the appointed donee(s)	3
Part C: Powers granted to the donees	
Part D: Donor's statement	2
Part E: Certificate of person described	
Part F: Statement(s) by the donee(s) and/or replacement donee(s)	2

Safeguards



Safeguards

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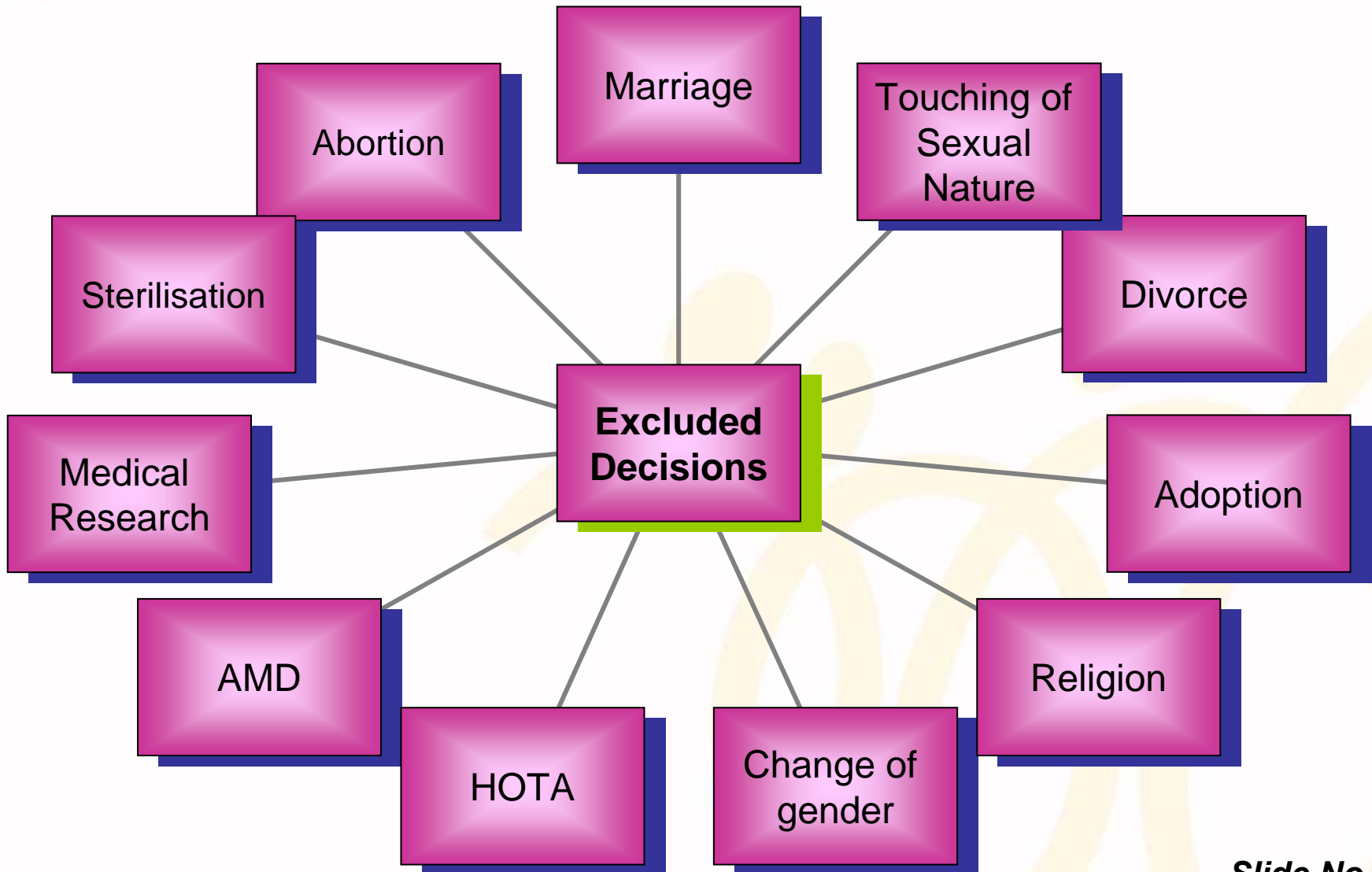
- ✓ ***Criminalise Ill-treatment and wilful neglect***

- ✓ ***Excluded Decision***

- ✓ ***Create a new officer, The Public Guardian***

Slide No. 10

Safeguards - Excluded Decisions



Office of The Public Guardian

- ✓ Maintain Registry of LPA and Court Orders for appointment of deputies
- ✓ Supervise deputies
- ✓ Deal with complaints and investigate alleged contraventions
- ✓ Public Education





Caregivers

✓ ***Protection for Caregivers***

- protect from Civil and Criminal Liability if acts in connection with care and treatment in best interest of care recipient and without negligence
- protection does not extend to acts concerning AMD and clinical trials
- formal & informal caregivers, incl. healthcare workers

✓ ***Claims & reimbursements***

- For necessary goods and services, caregiver may claim and reimburse himself out of money in the Person's possession
- No access to bank accounts

✓ ***Protection for Whistle-Blower***

- Protection of Identity
- Protection against liabilities of professional breach of information

~ Thank You ~