

## Special Needs Trust – Social Welfare Department Briefing, Charles Leung

15 February 2019

The Special Needs Trust (SNT) under the Social Welfare Department (SWD) is set up to help with financing the long-term care of a child or adult with special needs after their parents pass away. As an absolute trust, SNT will hold funds for the child and pay out on a monthly basis for ongoing care costs. The parents set up the trust in advance and outline a care plan that would come into force upon their death. Applications start in March 2019.

### Beneficiary

A person with intellectual disability (incl. Down syndrome, autism).

A person eligible for rehab services subsidised by SWD or for admission to special school under EDB.

A HK permanent resident ordinarily residing in HK.

### Settlor

A parent/sibling/relative of the person with special needs, aged 18 or above.

A HK permanent resident.

### Carer

Individual or institution specified by Settlor.

A HK permanent resident.

### Trustee

Social Welfare Dept

### Setting up SNT

1. Sign a **Deed of Trust** with SWD (who will be the Trustee).
2. Submit **Letter of Intent** and a **Care Plan** to specify long-term care and estimated expenses (maintenance costs + exceptional items paid out to Carer on monthly basis).
3. Name a list of future **Carers** (or institutional carers) – list several people who can be trusted to manage the child's care in future. Relatives, close friends, institutions or NGOs (some organisations may make arrangements in future). Make it a long list, in order of preference, since names cannot be added after Settlor's death.
4. Make (or modify) a **Will** giving instructions on the transfer of funds to the SNT after death.
5. Pay **first instalment** into account – enough to cover first 12 months estimated living expenses and service fee (since transfer of assets during probate may take time this money can be drawn upon immediately). Minimum amount of living expenses calculated by government is \$17,000 p/month currently = \$204,000 (\$17,000 x 12) + service fee as minimum deposit.

### After setup

Trustee and Settlor to regularly review care plan and estimated expenditure.

Lump-sum donations can be made at any time – equivalent to no less than 6 months' expenses.

### Activation of SNT

Upon the death of the Settlor.

Annual fee is payable upon activation. HK\$21,000 is the starting rate (will be reviewed periodically).

SNT Account Manager will visit and regularly review Beneficiary's care with the Carer. Trustee can appoint new Carer if first-listed is no longer available.

Backstop if money is exhausted = SWD CCSA / institutional care for the Beneficiary.

Upon death of Beneficiary, any remaining funds in SNT would go government for probate if the Beneficiary has no Will (must have mental capacity to first authorise a Will so may not have one). Claims from relatives can be made to government office as part of probate.

### Notes

Settlor must be an individual. If both parents are drawing up the plan, they need to decide which parent will be the Settlor. That parent must have a Will. When the Settlor dies, the SNT is activated and a surviving parent who would inherit the Settlor's estate, must either make donations into the SNT to continue its operation, or close the account after funds are used up and open a new SNT under their own name. There is some complexity in this part of the setup.

The child could practically be under the care of a domestic helper after the parent passes away, but the domestic helper does not meet the criteria of Carer for SNT purposes so another person must be appointed.

It may not be easy to find a suitable list of individuals for role of Carer, especially if Settlor does not have relatives in Hong Kong.

A hospital or other institution could be named on the Care Plan, if the hospital has set up a programme to accommodate such arrangement.







This is the initial plan for SNT setup from the government. They acknowledge it is not perfect and doesn't encompass all aspects. For example, EPA (enduring power of attorney) and upcoming CPA (continuing power of attorney), and situations where the parent may be incapacitated and unable to care for their child but not yet dead. There is room for improvement on many of the details.

Details are to be publicised on SWD website (incl. PowerPoint slides, possible) after all SWD briefings are concluded. Contact details overleaf.



## Enquiries & Application

Interested parties please contact the SNT Office of the SWD for more information:

-  Address: Room 901, 9/F, Wu Chung House, 213 Queen's Road East, Wan Chai, Hong Kong (Temporary office)  
Room 118, 1/F, Lady Trench Training Centre, 44 Oi Kwan Road, Wan Chai, Hong Kong (To be relocated to this address in March 2019)
-  Telephone: 2116 5308
-  Fax: 2117 1451
-  Email: [sntoenq@swd.gov.hk](mailto:sntoenq@swd.gov.hk)
-  Website: [https://www.swd.gov.hk/en/index/site\\_pubsvc/page\\_rehab/sub\\_listofserv/id\\_snto/](https://www.swd.gov.hk/en/index/site_pubsvc/page_rehab/sub_listofserv/id_snto/)
-  Opening hours: Monday to Friday:  
9:00 am to 1:00 pm; 2:00 pm to 5:00 pm  
Closed on Saturdays, Sundays and public holidays

