



K. 6/115 amended

Introducing the Special Needs Trust to Hong Kong

REBECCA LEE & LUSINA HO
FACULTY OF LAW

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Summary of the Impact

1

Successfully lobbied the HKSAR Government to launch and operate a Special Needs Trust to help care for individuals with intellectual disability. The first of its kind in the world. After initiating and committing to establishing the SNT in two consecutive Policy Addresses, the Government pledged in its 2018 Budget to allocate HK\$50 million to establish a dedicated office to launch the SNT.

2

Empowered and partnered with NGOs to campaign for improvement of the legal regime through a variety of activities including the first territory-wide survey on parental opinions on existing financial planning tools for individuals with intellectual disability in Hong Kong, policy papers, academic publications, numerous public forums and media interviews.

Summary of the Impact

3

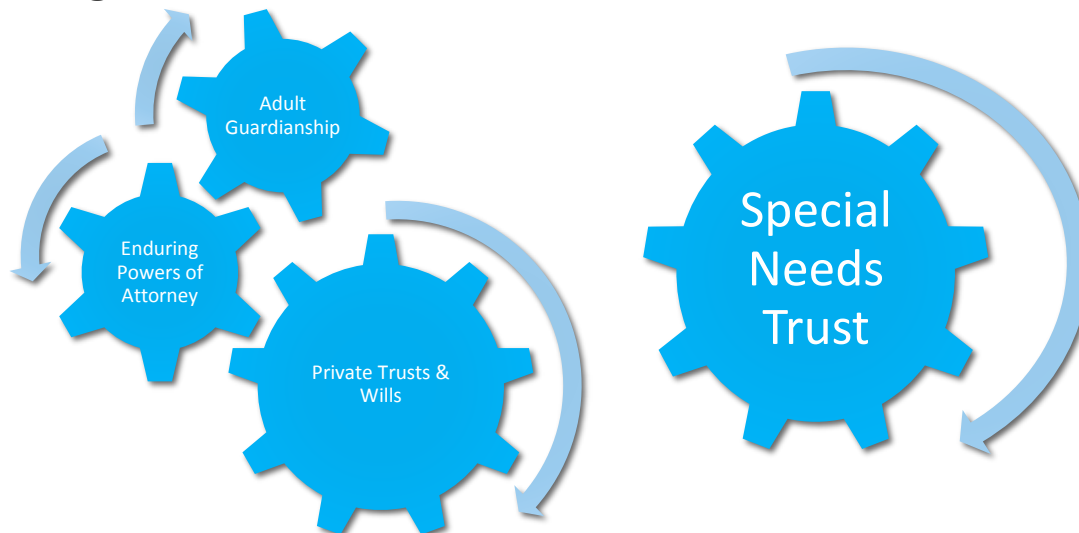
Influenced and informed policy debates on the protection of people with cognitive impairments in Hong Kong. Raised community awareness on the relevant issues.

4

Sharing of Hong Kong experience with overseas jurisdictions.

Underpinning Research

1. Our research focused on the legal framework for financial and personal welfare planning for individuals with cognitive impairments in Hong Kong. In particular, we:
 - a) **examined** the inadequacies of existing legal mechanisms including Private Trusts, Wills, Adult Guardianship, and Enduring Power of Attorney and
 - b) **advocated** for the introduction of a Special Needs Trust to assist financial planning for these individuals.



Underpinning Research

2. Team Members:

- a) Associate Professor Rebecca Lee, Faculty of Law
- b) Professor Lusina Ho, Harold Hsiao-Wo Lee Professor in Trust and Equity, Faculty of Law

Applying our expertise in trusts law, we recommended a model of **Special Needs Trust** for individuals with cognitive impairments that achieves cost-saving through pooling the funds contributed by parents/caregivers of these vulnerable individuals for management and investment.

Underpinning Research

3. Innovativeness of the knowledge arising from our research at HKU:

- a) First comprehensive survey of parental opinions on adequacy of financial planning mechanisms for individuals with cognitive impairments.
- b) Empowering and partnering with NGOs in advocating for law reforms.
- c) Engagement with NGOs and local media.
- d) Engagement with overseas experts to learn about their successful experience overseas.

Underpinning Research

4. **Significance of the key insights or findings from the research:**
- a) Lack of appropriate financial planning tools correlated to the financial abuse of individuals with cognitive impairments.
 - b) Lack of community awareness to the availability of legal mechanisms to assist persons with special needs.
 - c) Urgent need for the introduction of a Special Needs Trust.

Engagement

The knowledge arising from the research was shared with local experts, international experts, the media and the government through an engagement process which is best described as partnership amongst all stakeholders such that the knowledge was further enhanced, applied and disseminated.



(1) Engagement with International Experts



The University of Hong Kong Faculty of Law



Symposium on Special Needs Financial Planning

13-14 October 2017

9am-4.15pm, 13 Oct | 9.30am-12noon, 14 Oct
Arts Academic Conference Room, Faculty of Arts,
Room 436, 4/F, Run Run Shaw Tower, Centennial Campus, HKU
(HKU MTR Exit A2)

The Symposium will address three important topics relating to financial planning for people with special needs: special needs trust (13 Oct); adult guardianship (13 Oct); and the enduring power of attorney (14 Oct). There will be paper presentations by scholars, lawyers, managers and a former judge, all of whom have extensive experience in these areas.

The symposium will be conducted in English only.

Opening Remarks:

Mr David Leung, JP, Commissioner for Rehabilitation, HKSAR Government, Hong Kong

Speakers:

Special needs trust

Ms Kathy Birkes, Executive Director, Midwest Special Needs Trust, USA

Mr Roy Froemming, Consulting Attorney, WisPACT, Inc, USA

Ms Esther Tan, General Manager, Special Needs Trust Company Ltd, Singapore

Prof Je Cheol Ung, Hanyang University, South Korea

Asso Prof Rebecca Lee, University of Hong Kong, Hong Kong

Adult Guardianship

Mr James Gillis, Lawyer, Saskatchewan, Canada

Mr Denzil Lush, former Senior Judge of the Court of Protection, UK

Prof Makoto Arai, Chuo University, Japan

Prof Terry Carney, University of Sydney, Australia

Enduring Power of Attorney

Prof Hang Wu Tang, Singapore Management University, Singapore

Asso Prof Trevor Ryan, University of Canberra, Australia

Prof Lusina Ho, University of Hong Kong, Hong Kong

Mr Denzil Lush, former Senior Judge of the Court of Protection, UK

All are welcome.

Please register at https://hkuems1.hku.hk/hkuems/ec_hdetail.aspx?guest=Y&ueid=52436.

(2) Engagement with the Community

1. Collaborated with local NGOs to promote the SNT

- Heep Hong Society 協康會
- Association of Parents of the Severely Mentally Handicapped 嚴重弱智人士家長協會
- The Intellectually Disabled Education and Advocacy League (IDEAL) 勵智協進會

2. Media interviews (both traditional and online media)

- Lianhe Zaobao, Singapore 新加坡《聯合早報》
- TV Most 毛記電視
- RTHK Radio 1 《精靈一點》
- RTHK Radio 1 《千禧年代》
- RTHK Radio 1 《自由風，自由phone》
- AM 730
- The Standard
- RTHK Radio 3
- Oriental Daily

3. Set up social media platforms to provide resources to the community

- <https://www.facebook.com/hkusnt/>
- <http://snt.support>



Special needs trust
in HK
@hksnt



Engagement
with the
Community



WELCOME 歡迎

Welcome to Special Needs Trust @ Hong Kong. This website provides basic bilingual legal information to the general community on: (1) laws relating to financial management and personal supervision of mentally incapacitated persons in Hong Kong; and (2) the concept of special needs trust.

The website is managed by Professor Lusina Ho and Associate Professor Rebecca Lee of the Faculty of Law of the University of Hong Kong.

INFORMATION

Special Needs Trust 特殊需要信託
Guardianship 監護
EPA 持久授權書
Wills and Succession 遺囑及繼承

Search ...

毛記電視《愛·回帶》4月13日的主題是關於特殊需要信託。
Special needs trust featured in a TV Most programme on 13 April
<https://www.facebook.com/tvmosthk/videos/1877858509129144/>



221,311 Views

毛記電視
April 13, 2017 ·

13/4《愛·回帶》第36集「我想白頭人送黑頭人」

「白頭人送黑頭人」對我哋嚟講，係一種禁忌，但對有特殊需要子女嘅家長，可能係一種幸福。
因為有唔少家長其實都好擔心自己離世之後，冇人照顧自己有特殊情況嘅子女，所以外會有「雙雙自殺」嘅慘劇發生。
近幾年，類似嘅慘劇依然不斷，究竟政府或者市民有啲咩可以幫到佢哋？



(3) Engagement with the Government

Provided professional advice and support to the Government throughout the design and implementation of the Special Needs Trust

1. Expert advice

- Submitted policy proposal to the Government advocating the introduction of a Special Needs Trust to Hong Kong.
- Presented bilingual report on the key findings and observations of the questionnaire survey of parental opinions to the Government.

2. Professional support

- Prof Ho was appointed a member of the Taskforce on the Feasibility Study of the Special Needs Trust set up by the Labour and Welfare Bureau.
- In this capacity, Prof Ho presented details about the planned SNT along with government officials in *all* public consultation forums organized by the HKSAR Government on the SNT.

Impacts Achieved

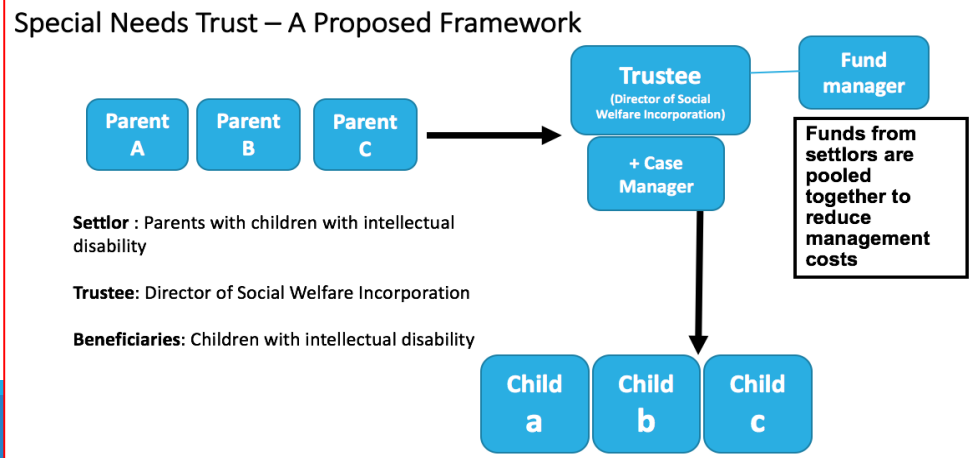
1. Introduction of a Special Needs Trust to provide affordable trust service for individuals with intellectual disability along the lines proposed and advocated by us:

a) HKSAR Policy Address (Oct 2017):

'The Government has decided to take the lead in setting up a "special needs trust", with the Director of Social Welfare as the trustee, to provide reliable and affordable trust services for managing the assets of deceased parents.' (para 190)

b) HKSAR Government Budget (Feb 2018):

'Last year, the Government announced the provision of trust services for parents whose children have special needs. I will allocate \$50 million to set up a dedicated office for this purpose.' (para 176)



Impacts Achieved

2. Empowering and partnering with NGOs in advocating law reforms

- a) Partnered with parent concern group and NGOs in conducting the first territory-wide Questionnaire Survey of parental opinions in 2016 with overwhelming response of over 2,500 valid returns.
- b) Published a detailed bilingual report on the key findings and observations of the survey.
- c) Organised a large-scale press conference attended by about 200 members of the public and the media.
- d) Presented report to the Government for consideration.



Impacts Achieved

3. Influencing and informing policy debates on protection of people with cognitive impairments

擔心智障子女長遠生活照顧 家長冀設特殊需要信託

2017-01-11

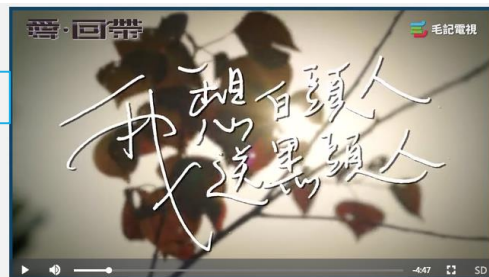
am730

林鄭指特殊需要兒童令她感受最深 - 有線寬頻i-CABLE

cablenews.i-cable.com > 新聞·財經 > 即時新聞

Oct 21, 2017

她指，於《施政報告》中承諾，把學前康復服務的輪候時間減至零，將名額增至七千個，林鄭月娥指，有需要時可提供更多，政府亦會牽頭成立「特殊需要信託」，由社署署長擔...



2017年04月13日 星期四

《愛·回帶》13/4 我想白頭人送黑頭人

TV Most

i-CABLE news

Hong Kong's elderly and vulnerable need better protection from financial cheats

Tang Hang Wu calls on policymakers, NGOs, lawyers and others to improve oversight to tackle this growing problem, especially in a rapidly ageing society like Hong Kong

PUBLISHED : Monday, 16 October, 2017, 3:18pm
UPDATED : Monday, 16 October, 2017, 7:11pm



Tang Hang Wu

A frequently overlooked problem in developed societies is the financial abuse of people who are incapable of managing their daily affairs. This group may include people with dementia, schizophrenia or an intellectual disability, as well as vulnerable elderly folk.

rthk.hk : Radio 1|精靈一點|(主持：沈達元、方健儀) 特殊需要信託/ 教得其...

www.rthk.hk/radio/radio1/programme/healthpedia/.../411658?lang... - Translate this page

13:00-13:30 主題：特殊需要信託嘉賓：何錦璇教授(香港大學法律學院教授) 或/ 及李穎芝副教授(香港大學法律學院副教授)

RTHK

South China
Morning Post

Impacts Achieved

4. **Sharing of Hong Kong experience with jurisdictions interested in establishing a Special Needs Trust:**
- a) Mainland China
 - b) Japan
 - c) South Korea

