



ADULT PROTECTION ACT PROVINCIAL POLICY MANUAL 2019



DEPARTMENT OF CHILDREN, SENIORS AND SOCIAL DEVELOPMENT
GOVERNMENT OF NEWFOUNDLAND LABRADOR

Table of Contents

Introduction	1
Glossary	4
Section 1: Application & Service Principles	
1.1 Application.....	7
1.2 Adult in Need of Protective Intervention	9
1.3 Presumption and Right to be Heard	13
1.4 Service Principles.....	15
1.5 Regional Directors.....	17
1.6 Provincial Director	19
1.7 Review	21
Section 2: Adult in Need of Protective Intervention	
2.1 Reporting Required	22
2.2 Evaluation	24
2.3 Investigation	27
2.4 Warrant: Entry	34
2.5 Tele-warrant.....	37
2.6 Application and Orders re: Investigation	39
2.7 Action Following Investigation	42
2.8 Application for Declaration.....	46
2.9 Order of Court	50
2.10 Emergency Intervention	55
2.11 Appeal.....	59
2.12 Proceedings	60

Table of Contents

Section 3: General

3.1 Service Plan and Review Committee	62
3.2 Confidentiality.....	66
3.3 Other	69

Appendices

Appendix A: Risk Assessment Guidelines and Continuum.....	70
Appendix B: Electronic Links	75
Appendix C: Adult Protection Report Form (RHA)	76
Appendix D: Adult Protection Report Form User Guide.....	79
Appendix E: Adult Protection Report Form (Police).....	83
Appendix F: Adult Protection Evaluation Form	84
Appendix G: Adult Protection Evaluation Form User Guide.....	88
Appendix H: Adult Protection Consent Form.....	90
Appendix I: Adult Protection Investigation Template.....	92
Appendix J: Court Forms.....	94
Appendix K: Adult Protection Review Committee Forms	95
Appendix L: Decision Tree.....	103
Appendix M: Additional Resources.....	104

Introduction

The **Adult Protection Act** (the Act) is the law in Newfoundland and Labrador that protects adult residents of NL who do not understand or appreciate the risk of abuse and/or neglect, including self-neglect.

Under the Act, an adult in need of protective intervention means an adult who lacks capacity and is either incapable of caring for themselves or who refuses, delays or is unable to make provision for adequate care and attention of themselves; or is abused or neglected (Section 5 of the **Adult Protection Act**).

Service principles outlined in the Act presume every adult has the capacity to make decisions unless the contrary is proven. If the adult is capable and does not harm themselves or others, the adult may choose to live as they wish. **The quality of a decision is not indicative of the ability to make that decision.**

An adult may be capable of making a decision in one area of life but not another (e.g., health, finances). If an adult's capacity is questioned when an allegation of abuse and/or neglect occurs, a formal capacity assessment must be completed. This usually occurs during an adult protection investigation but it may be initiated during the evaluation phase. A comprehensive interdisciplinary capacity assessment process has been developed (see Appendix M).

The adult's method of communication must not be used to determine that adult's ability to make a decision. The adult has the right to be heard and to participate to the greatest extent possible in decision-making. Every reasonable effort must be made for the adult to be clearly understood. This may include assistance from family and friends whom the adult has identified as helpful in understanding choices and communicating decisions; this will also likely include legal counsel.

The delivery of services to an adult who is or may be in need of protective intervention should be the most appropriate to meet the adult's needs while being the **least restrictive and intrusive** form of support or protection that can be accommodated within program and service guidelines.

The best interests of the adult must always be the primary consideration. When appropriate, the preservation of family ties and contacts must be accommodated. The adult who is or may be in need of protective intervention must have their service plan reviewed and revised as needed to ensure their needs continue to be met and the risk of abuse and/or neglect is mitigated.

This manual includes step by step procedures about how to assess an adult's capacity, and to determine whether abuse, self-neglect and/or neglect are factors contributing to an adult's risk of harm. It describes the evaluation process for all reports that have been accepted and, when necessary, the completion of the investigations of adults who may be in need of protective intervention. If an application is made to court to declare an adult

in need of protective intervention, a service plan must accompany that application. If an adult is declared by a judge to be in need of protective intervention, the service plan must be reviewed minimally every six months by a social worker and formally once a year by a provincial review committee.

Legal proceedings under the Act are heard in the Provincial Court or the Supreme Court of Newfoundland and Labrador, Trial Division. Proceedings under the Act are considered to be civil actions. If at anytime during the adult protection process there is evidence of criminal activity and there is concern about the adult's capacity to understand or appreciate the risk, a report must be made to police. If there is uncertainty about whether criminal activity has occurred, consultation with police will occur.

This manual establishes policies intended to provide consistent and quality implementation of the Act throughout the province. The policies are grouped in sections as indicated in the **Table of Contents**.

The **Glossary** provides definitions of terms used both within the Act and throughout the policy manual. When applicable, sections of the Act are included.

The manual is divided into three sections consistent with the layout of the Act. Section one, **Application and Service Principles**, outlines the philosophical basis of the Act and identifies the target population. This section describes the principles upon which the Act is based. In this section, the premise that adults are presumed capable unless proven otherwise is addressed. Further, adults who lack capacity must be provided protection from abuse, neglect and self-neglect. Adults have the right to be heard on their own or through a spokesperson and to participate in decision-making to the greatest extent possible. Lastly, this section addresses the roles of a provincial director and regional directors, as well as the review process.

Section two, **Adult in Need of Protective Intervention**, outlines the reporting requirements, evaluation and investigation processes. It also describes the necessary steps during and following an investigation including applications to court, emergency intervention and, if required, the appeal process. These provisions provide investigators with the authority to intervene, evaluate, and secure the safety, health and well-being of adults in accordance with the **Service Principles** of the Act.

Section three, **General**, describes how to prepare, implement and evaluate a service plan for an adult who is in need of protective intervention. It also addresses confidentiality, good faith protection, protection of employees from reprisal, and Labrador Inuit rights.

Lastly, the **appendices** include resources that will assist in the implementation of the Act such as guidelines for assessing capacity and risk, and forms for reporting and evaluating an adult who may be in need of protective intervention.

For each policy, the **statutory provision** provides the citation from the Act. This is followed by the **policy** which provides the minimum directions necessary to meet

provincial requirements. When appropriate, this is followed by **procedures** which outline specific processes that are needed to meet the legislative requirements of the Act.

It is intended that the Act, and its accompanying policies and procedures, will promote the safety of adults who are unable to understand or appreciate their current level of risk and reduce instances of abuse, neglect and self-neglect.

Glossary

Abuse – Section 2(a) – The deliberate mistreatment of an adult who lacks the capacity to protect self that causes or is reasonably likely, within a short period of time, to cause the adult (1) serious physical, psychological or emotional harm, or (2) substantial damage to or substantial loss of assets. Abuse can be **physical, sexual, emotional, psychological, spiritual, cultural, verbal, or financial**, and includes **neglect**.

Adult – Section 2(b) – A person who is not a child or youth as defined in the **Children and Youth Care and Protection Act**.

Adult in Need of Protective Intervention – Section 5 – An adult who lacks capacity and who is (1) incapable of caring for oneself, or who refuses, delays or is unable to make provision for their adequate care and attention; or (2) is abused or neglected.

Authority – Section 2(d) – A regional health authority established under section 6 of the **Regional Health Authorities Act**.

Best Interests – Section 8(b) – Considered to be the best approach to eliminate or decrease the assessed risk to the adult based on that adult's choices and lifestyle. It also includes the services available, the support system of the adult, and the ability of the adult to participate in the available services.

Capacity – Section 6(2) – The ability of an adult to understand information relevant to a decision where that decision concerns one's health care, physical, emotional, psychological, financial, legal, residential or social needs; and the ability to **understand and appreciate** the reasonable foreseeable consequences of a decision or the lack of a decision.

Clear Days – Section 22(k) of the Interpretation Act – (for the purposes of non-court procedures) – The number of days excluding the first and last days on which the event happens. Further, where the time limited for the doing of a thing expires or falls upon a Saturday, Sunday or holiday, the thing may be done on the following day that is not a holiday.

If the reference to **clear days** pertains to a court matter, the calculation of time pertaining to that reference would be governed by the definition of clear days set out in the applicable Rules of Court. Depending on the level of court, different rules of proceedings apply and the two sets of rules contain somewhat different definitions. Consult with the Department of Justice and Public Safety solicitor who is involved with the court matter.

Co-habiting Partner – Section 2(e) – Either of 2 persons who have co-habited in a conjugal relationship outside of marriage for a period of at least one year.

Court – Section 2(f) – The Provincial Court or the Supreme Court of Newfoundland and Labrador, Trial Division (unless otherwise specified).

Department – Section 2(g) – The Department of Children Seniors and Social Development.

Director – Section 2(h) – A person appointed by a regional health authority who has responsibilities under the Act. For the purpose of this manual, the directors are referred to as regional directors.

Investigator – Section 15 – A person who is a social worker or another person or class of persons as defined in the regulations that accompany the **Adult Protection Act**.

Judge – Section 2(i) – A Provincial Court judge or a judge of the Supreme Court of Newfoundland and Labrador, Trial Division (unless otherwise specified).

Minister – Section 2(j) – The minister appointed under the **Executive Council Act** to administer this Act.

Neglect – Section 2(k) – The failure to provide care, assistance, guidance or attention to an adult who lacks capacity that causes, or is reasonably likely, within a short period of time, to cause the adult serious physical, psychological or emotional harm or substantial damage to, or substantial loss of assets.

Next of Kin – Section 2(l) – In order of priority, (1) the spouse or co-habiting partner, (2) the children, or (3) the parent(s) or guardian(s) of the adult in need (or who may be in need) of protective intervention.

Peace Officer – Section 2(m) – A member of the Royal Newfoundland Constabulary (RNC) or the Royal Canadian Mounted Police (RCMP), or a person approved by the Attorney General to perform the duties of a peace officer.

Provincial Director – Section 2(n) – The Provincial Director of Adults in Need of Protective Intervention.

Reprisal – Section 2(o) – One or more of the following measures taken against an employee because the employee has, in good faith, made a report or participated in an investigation as required under this Act:

- (i) a disciplinary measure;
- (ii) a demotion;
- (iii) termination of employment;
- (iv) a measure that adversely affects one's employment or working conditions; or,
- (v) a threat to take a measure referred to in subparagraphs (i) to (iv).

Self-neglect – Section 2(p) – The failure of an adult who lacks capacity to take adequate care of oneself where that failure causes, or is reasonably likely, within a short period of time, to cause serious physical or psychological harm or substantial damage to or substantial loss of assets. Self-neglect can include (1) living in grossly unsanitary conditions; (2) suffering from an untreated illness, disease or injury that, within a short period of time is likely to cause physical or psychological harm; (3) suffering from

malnutrition to the extent that, without intervention, the adult's physical or mental health is likely to be severely impaired; and/or (4) creating a hazardous situation that will likely cause serious physical harm to the adult or others or cause substantial damage to or substantial loss of the adult's assets.

Social Worker – Section 2(q) – A person registered under the **Social Workers Act**, and employed by a health authority or the province.

Spokesperson – Section 7 – An individual with whom the adult has a trusting relationship and who assists with communicating their will and intentions.

- This individual can act as a **spokesperson** for the adult, based on their understanding of the adult's identity and communication abilities over time.
- The spokesperson is **not** a substitute decision maker, and does **not** make decisions on behalf of the adult.
- The **spokesperson assists** the adult in communicating their will and intent.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 1: Application and Service Principles	Subsection 1.1: Application
Effective Date:	Revised:

Statutory Provision

4. (1) This Act applies to every person who is not a child or youth as defined in the **Children and Youth Care and Protection Act** including a person who is a patient or resident in:
- (a) a facility operated by an authority established under paragraph 6(1) (b) of the **Regional Health Authorities Act**;
 - (b) a personal care home as defined in the **Personal Care Home Regulations**;
 - (c) a long term care home;
 - (d) a community care facility; or,
 - (e) an assisted living facility.
- (2) This Act does not apply to a person who is the subject of a certificate or a community treatment order issued under the **Mental Health Care and Treatment Act**.

Policy

The Act applies to every adult resident of NL regardless of living arrangement. It does not apply to anyone to whom the **Children and Youth Care and Protection Act** applies. Nor does it apply to anyone who is certified or under a community treatment order of the **Mental Health Care and Treatment Act**.

If an adult is currently under an Order to Investigate (Section 19, **Adult Protection Act**), the order will provide the authority to ensure an adult receives the necessary medical assessment, including the removal of an adult to a place of safety or the transportation of an adult to a treatment facility. It is not necessary to seek certification under the **Mental Health Care and Treatment Act**.

An adult who is being treated under the **Mental Health Care and Treatment Act** may reveal indicators of abuse, neglect and/or self-neglect during hospitalization/treatment. The adult may show signs of lacking capacity. Communication can occur between professionals prior to the end of the adult's treatment to evaluate the need for a

subsequent adult protection report, and evaluation when the certification/community treatment order ends.

The Act applies to adults who live in private residences within their community. It also includes adults who live in public and private facilities that offer a variety of supportive services.

Regardless of the adult's place of residence, a standardized reporting process must be followed when it is believed that an adult may be in need of protective intervention. A report received and accepted must be evaluated according to the report and evaluation process outlined in this manual.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 1: Application and Service Principles	Subsection 1.2: Adult In Need of Protective Intervention
Effective Date:	Revised:

Statutory Provision

5. An adult in need of protective intervention means an adult who lacks capacity and who:
- (a) is incapable of caring for oneself, or who refuses, delays or is unable to make provision for adequate care and attention for oneself; or,
 - (b) is abused or neglected.

Policy

In determining if an adult is in need of protective intervention, the adult **must lack capacity** and meet one of the following two criteria:

(1)The adult is incapable of caring for themselves and refuses, delays or is unable to make provision for their adequate care and attention (self-neglect).

The Act refers to capacity. If an adult's capacity is uncertain and there are **valid triggers** to suggest an adult may lack the capacity to understand and appreciate the risk associated with abuse and neglect, a formal capacity assessment may be required.

Capacity is a term sometimes used interchangeably with **competency**.

Competency implies a global ability to understand and appreciate. It is a concept that has generally been used in the judicial system.

Capacity refers to the ability to understand and appreciate the risks that accompany a specific decision at a specific time. For example, to be capable, an adult who is faced with making a decision about whether to accept home support services must be able to understand how the implementation of services will affect them. The adult must have the ability to appreciate whether or not services will enhance functioning and mitigate risk of abuse and neglect.

In keeping with the service principles of the Act, every reasonable effort must be made to provide the adult, when necessary, with the support needed to determine whether they have the ability to understand and appreciate consequences. An adult may lack capacity in one area but not another. For example, an adult may have capacity to make personal

care decisions but not financial ones. Likewise, features of an adult's diagnosis or disability may impact capacity, but the diagnosis or disability does not determine capacity.

Self-neglect is the term used within the Act to describe whether the adult is incapable of caring for themselves. This is of concern when that failure causes, or is reasonably likely to cause, serious physical or psychological harm. This means that in the judgment of a professional an incident is likely to occur. The professional must evaluate the level of risk and determine whether a harmful situation may develop within a short period of time. The amount of time is dependent on the seriousness of the situation and level of risk involved. Risk is evaluated on a continuum ranging from low to extremely high (see Appendix A). A situation may require immediate action within hours or, based on evaluation, within five clear days.

The Act also defines self-neglect as substantial damage to, or substantial loss of assets. It is recognized that adults who may be in need of protective intervention are sometimes in situations where assets are at risk. Again, a reasonable response is dependent on the seriousness of the situation and the level of risk.

A comprehensive evaluation coordinated by a professional is necessary to determine self-neglect. Self-neglect can occur in a variety of ways. For example:

- An adult could be living in grossly unsanitary conditions. A professional evaluation with interdisciplinary input will decide whether these conditions are a risk to the adult's health. A capable adult's lifestyle choices based on their value system and/or culture are to be respected and are not assumed to be indicators of self-neglect.
- An adult could be suffering from malnutrition, or an untreated illness, disease or injury. Upon evaluation, the professional will initiate the medical assessment necessary to understand the adult's current health status and any related risks.
- An adult could create a hazardous situation, such as a major fire risk, that could cause serious physical harm to the adult and/or others or substantial damage to or a substantial loss of assets. An evaluation of the adult's environment will identify risks so a response can be prepared.

(2) The adult is abused or neglected.

An adult who lacks capacity to protect themselves from being deliberately mistreated is at risk of being abused or neglected.

Section 2(a) of the Act defines **abuse** as:

The deliberate mistreatment of an adult who lacks the capacity to protect themselves that causes or is reasonably likely, within a short period of time, to cause the adult:

- (i) serious physical, psychological or emotional harm; or,
- (ii) substantial damage to or substantial loss of assets

and includes intimidation, humiliation and sexual assault.

The Newfoundland and Labrador **Violence Prevention Initiative** identifies nine types of violence including physical, psychological, emotional, verbal, sexual, financial, neglect, spiritual/religious and cultural (see Appendix B for the link to this initiative). The Act specifically identifies physical, psychological, emotional, and financial abuse as well as intimidation, humiliation and sexual assault.

Physical abuse involves using a part of the body or an object to control an adult. An act of violence or rough treatment may cause injury or physical discomfort to the adult. Such behaviour includes, but is not limited to:

- any kind of physical assault such as slapping, pushing, pulling, kicking, and punching;
- injury with any object or weapon;
- deliberate, inappropriate exposure to severe weather; or,
- forcible confinement, chemical restraint or physical restraint.

Psychological abuse involves using threats to cause fear and gain control while **emotional abuse** occurs when something is said or done to make the adult feel worthless. These acts may diminish one's sense of identity, dignity or self-worth. Behaviours associated with these types of abuse include, but are not limited to:

- confinement;
- physical and social isolation; or,
- verbal assault, such as treating an adult like a child by trying to control their decisions.

Humiliation and intimidation are considered forms of abuse. An adult may be humiliated when another adult makes fun of the way they speak, look or act. An adult may be intimidated when an adult threatens their safety or well-being by controlling decisions. For example, threatening to change locks on doors or threatening to force the adult to live in another place. Both humiliation and intimidation can cause psychological and/or emotional harm.

Financial abuse involves illegally or improperly using an adult's money, property or assets. In the Act, it is described as causing an adult substantial damage to or substantial loss of assets. It is believed that unless some form of intervention is introduced the adult's assets are likely to be considerably compromised, deteriorated or depleted. Examples of financial abuse include, but are not limited to:

- withholding or spending another adult's money without legal authorization; or,
- forcing an adult to sign a legal document without their full understanding and appreciation of the implications.

Sexual assault occurs in circumstances when the sexual integrity of the adult is violated. This occurs where an adult takes part in sexual activity but lacks the capacity to consent. It includes unwanted acts such as, but not limited to:

- kissing;
- grabbing;
- fondling; or,
- forced sexual intercourse.

Neglect is a term used in the Act that describes the failure to meet the basic needs of an adult. In Section 2(k) of the Act, neglect means the failure to provide care, assistance, guidance or attention to an adult who lacks capacity that causes, or is reasonably likely, within a short period of time, to cause to the adult serious physical, psychological or emotional harm or substantial damage to or substantial loss of assets.

Neglect refers to situations in which basic needs such as food, water, shelter, heat, clothing, hygiene, and safety are not being met by others who may be responsible for the adult's care. Neglect may also include situations when proper medical, dental or psychiatric treatment is not being provided.

When evaluating allegations of abuse or neglect the professional must use judgment to determine if the adult has been harmed or is reasonably likely to be harmed within a short period of time. Abuse and neglect include circumstances where an adult is reasonably likely to suffer serious harm. Response timeframes will vary according to the level of risk and the nature of the alleged abuse/neglect/self-neglect.

Serious harm is evaluated using a risk continuum that defines low to extremely high risk (see Appendix A). Key factors considered include the adult's immediate physical safety, medical status, supportive services, and their capacity to understand and appreciate any identified risks.

A comprehensive evaluation of alleged abuse or neglect must also include an understanding of how an adult's cultural and spiritual values, beliefs and practices influence their lifestyle. **In this context, it is important to understand the adult's perception of the level of risk.**

ADULT PROTECTION ACT Provincial Policy Manual	
Section 1: Application and Service Principles	Subsection 1.3: Presumption and Right to be Heard
Effective Date:	Revised:

Statutory Provisions

6. (1) An adult is presumed to have the capacity to make decisions unless the contrary is proven.
- (2) An adult shall be considered to lack the capacity to make a decision where that adult:
 - (a) is unable to understand information relevant to the decision where that decision concerns health care, physical, emotional, psychological, financial, legal, residential or social needs; or,
 - (b) is unable to appreciate the reasonably foreseeable consequences of a decision or the lack of a decision.
- (3) Where an adult is determined to lack the capacity for decision-making referred to in subsection (2) in one particular context, the adult shall not be presumed to lack the capacity for decision-making in those other contexts or all of them unless the contrary is proven.
- (4) An adult's method of communicating with others is not grounds for deciding that they are incapable of making decisions.
- (5) For the purpose of this section, capacity for decision-making may be assessed by those persons approved by the minister in the regulations.
7. In a matter or proceeding under this Act, whether before a court or a person having authority to make a decision that affects the adult who is or may be in need of protective intervention, that adult has the right to be heard either on their own or through a spokesperson.

Policy

An adult shall be presumed capable unless proven otherwise. The adult must be involved as fully as possible in any decision-making process. An adult's capacity must be considered throughout the reporting, evaluating and investigating stages of the Act. An adult is presumed to have the ability to understand the information relevant to their decisions or appreciate the consequences of these decisions unless proven otherwise.

An adult has the right to make a decision even if it may be considered by some as unwise or not socially acceptable. When an adult's decision is likely to create a safety risk to self or others and reasonable attempts have been made to resolve the risk without success, it may be necessary to assess the adult's capacity to understand and appreciate that risk (see Appendix A for Risk Assessment Guidelines and Continuum).

A capacity assessment is decision-specific. Usually a risk has been identified in a particular area that suggests an adult may be in need of protective intervention. Capacity may exist in one area but not another. For example, the adult may have the ability to make personal health care decisions but lack the ability to make financial decisions.

While diagnosis or disability do not determine capacity, features of an adult's diagnosis or disability may impact capacity. Temporary factors can affect a specific capacity assessment. These include physical health problems such as a urinary tract infection or mental health issues such as a drug-related delirium. Temporary factors that can influence a person's capability must be resolved before capacity is assessed.

Capacity is a fluid concept. Once a capacity assessment is completed it may be necessary to re-evaluate an adult's capacity due to significant change(s).

The inability of an adult to communicate in traditional ways must not determine an adult's capacity to make decisions. Communication methods vary, and every reasonable effort must be made to assist the adult with communication. Assistance with communication may include: translation or interpretation; use of a spokesperson; and/or use of a technical aid or device such as a pocket talker to enhance hearing.

The adult's known wishes (written or oral) when they were capable will be considered. If the adult has a designated substitute decision-maker, that person will be contacted to better understand the adult's wishes unless the substitute decision-maker is the alleged source of the abuse or neglect.

A comprehensive capacity assessment will be coordinated by a social worker whenever required. The capacity assessment is an interdisciplinary one and will include observations and/or interviews with the adult who may be in need of protective intervention, collateral information, and professional judgment. The document detailing the specific formal capacity assessment process can be referenced in Appendix M.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 1: Application and Service Principles	Subsection 1.4: Service Principles
Effective Date:	Revised:

Statutory Provision

8. The following principles apply to the delivery of programs and services under this Act:
- (a) an adult is entitled to live in the manner they wish as long as that adult
 - (i) has the capacity to make decisions respecting their lifestyle; and,
 - (ii) does not harm self or others;
 - (b) in relation to an intervention to assist or protect an adult who is or may be in need of protective intervention, the paramount consideration shall be the best interests of that adult;
 - (c) an adult who is or may be in need of protective intervention should be involved to the greatest possible extent in decisions relating to them;
 - (d) an adult who is or may be in need of protective intervention should receive the most effective but the **least restrictive and intrusive** form of support or protection when unable to care for themselves or their assets, as program and service resources, including budgetary appropriations, permit;
 - (e) an intervention to assist or protect an adult should be designed for the specific needs of that adult and should be reviewed and revised as needs and conditions change;
 - (f) the delivery of services under this Act should provide for the preservation of family ties and contacts in all appropriate circumstances; and,
 - (g) an adult who is or may be in need of protective intervention should, if desired, be encouraged to obtain support, assistance and advice from family and friends to help that adult understand choices, and to make and communicate decisions.

Policy

In the Act the following underlying principles are fundamental to the development of services and supports for adults who are, or may be, in need of protective intervention.

An adult's autonomy is valued and respected. An adult is entitled to live in the manner they wish as long as that adult has capacity to understand and appreciate decisions, and does not harm self or others.

All interventions should reflect the adult's best interests. Determining whether a service or program is in the adult's best interest involves a thorough professional evaluation of the adult's past and current living situation. This includes evaluating the adult's safety, health and well-being, as well as physical, emotional and psychological needs. It also includes evaluating the adult's relationship with family or significant others, the adult's cultural and community connections and the adult's past and present wishes and feelings.

The adult must be involved as fully as possible in any decision-making process. An adult has the right to make a decision even if it may be considered by some as unwise or not socially acceptable. When an adult's decision is likely to create a safety risk to self or others and reasonable attempts have been made to resolve the risk without success, it may be necessary to determine the adult's capacity to understand or appreciate the risk (see Appendix A for Risk Assessment Guidelines and Continuum).

When intervention is needed, the service principles highlight the importance of providing the least intrusive and restrictive form of support or protection. In doing this, consideration must also be given to the availability of program and service resources.

The type of intervention or support needed must be designed based on the specific needs of the individual. Every effort must be made to assist the adult with communicating their needs. For example, if an adult speaks a different language, their needs may be most clearly understood through the use of a translator or interpreter. Interventions should be reviewed and revised with the adult or through a spokesperson if necessary, when the adult's needs and conditions change.

Delivery of services to an adult who is in need of protective intervention must consider the preservation of family ties and contacts when appropriate. It is recognized that the preservation of family ties may not always be feasible or desired by the adult. For example, a family member could be identified as the source of the alleged abuse or neglect.

The adult is encouraged to obtain support, assistance and advice from family and friends who may help the adult understand choices as well as make and communicate decisions.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 1: Application and Service Principles	Subsection 1.5: Regional Directors
Effective Date:	Revised:

Statutory Provision

9. (1) An authority shall appoint one or more directors who shall exercise the powers and perform the duties that are conferred or imposed upon them by this Act.
- (2) A director appointed under subsection (1) may designate a person who is a manager as acting director to exercise the powers and perform the duties of that director where the director is absent or unable to act.
- (3) A director shall, every 6 months or more often if requested by the provincial director, make a report to the provincial director respecting the exercise of that director's duties, and the report shall include the information that the provincial director may require.

Policy

A regional director, or designate acting on behalf of a regional director, must perform a number of duties under the Act. When an adult is believed to be in need of protective intervention, these duties include receiving reports; completing an evaluation; referring to other services or programs; and if required, directing an investigation or completing an emergency intervention.

A regional director must appoint a designate if they are absent or unable to perform the duties of a director. The designate must be a manager or another director. There is always a social worker on call together with a manager who may or may not be a social worker. When an adult protection report is received on call, the social worker will review and if the report is accepted, it will be evaluated in consultation with a coordinator or manager to determine next steps. The completed evaluation form will be signed by a manager.

In some situations it may be appropriate for a regional director to report the matter to the police. This will occur if an adult appears to lack capacity and criminal activity is suspected. For example, an adult who is assessed and determined to lack capacity and presents with suspicious lacerations or bruises must be referred to the police for investigation.

A regional director may make an application to the court for a warrant to remove an adult from a harmful situation. The director may request the assistance of police when enforcing a warrant.

In extreme or urgent circumstances a regional director may remove an adult to a place of safety without a warrant under Section 23 (3) of the Act. Police will be requested to assist with an emergency intervention. In consultation with the Department of Justice and Public Safety, an application to the court for a declaration must be made by the provincial director no later than two clear days after the day the adult has been removed to safety.

A regional director may also be required during the course of an investigation to make an application to the court for an order to investigate (Section 19 of the Act). This order may require the release of information; a medical assessment; a capacity assessment; entrance into premises; a financial audit; the removal of an adult from a place of residence; or, any other actions deemed appropriate.

Under Section 21 of the Act it is the responsibility of the provincial director to apply to the court for an order to have the adult declared in need of protective intervention. A regional director will make the application for declaration only if designated by the provincial director who is absent or unable to act.

A regional director or designate must prepare a service plan for every adult declared in need of protective intervention.

A regional director must provide information to the provincial director regarding the implementation of the legislation within each region. This will be used to assist the provincial director in evaluating and monitoring the legislation and provincial policies. A report is required every six months or more often as requested.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 1: Application and Service Principles	Subsection 1.6: Provincial Director
Effective Date:	Revised:

Statutory Provision

10. (1) There shall be a provincial director of adults in need of protective intervention who shall:
- (a) establish province-wide policies, programs and standards respecting adults in need of protective intervention;
 - (b) evaluate and monitor adherence to the established policies, programs and standards; and,
 - (c) where ordered by the court or otherwise under the authority of this Act, maintain custody of persons who are or may be adults in need of protective intervention.
- (2) The provincial director may require that a director exercise and perform duties assigned under this Act in the manner that the provincial director considers appropriate, and a director shall comply with those requirements.
- (3) Notwithstanding that a power is conferred or a duty is imposed upon a director under this Act, the provincial director may, in his or her discretion, exercise that power or perform that duty.

Policy

The provincial director is responsible for developing, implementing, monitoring, and evaluating province-wide policies, programs and standards related to the Act.

The provincial director, in consultation with the regional director/designate, makes or supervises decisions made on behalf of those adults declared as adults in need of protective intervention. A service plan, developed by a social worker, is reviewed minimally every six months or whenever there is a change in the adult's circumstances. A Review Committee reviews the service plan of the adult annually.

The provincial director may receive a report; evaluate a situation; direct an investigation; invoke emergency intervention and apply to court for a declaration that an adult is in need of protective intervention.

If a high risk situation is evaluated, the provincial director may move an adult who may be in need of protective intervention to a safe location (e.g. hospital, long-term care facility, alternate family care home).

The provincial director may request the assistance of police when enforcing a warrant or completing an emergency intervention.

In consultation with the Department of Justice and Public Safety, an application to the court for a warrant or interim order must be made as soon as possible and no later than two clear days after the day the adult has been removed to safety.

The provincial director may apply to the court for an order to have the adult declared to be in need of protective intervention under Section 21 of the Act. In the absence of the provincial director, a designate must be identified.

If a matter relates to finances, the provincial director may request that the public trustee intervene on an emergency basis to protect the adult's assets.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 1: Application and Service Principles	Subsection 1.7: Review
Effective Date:	Revised:

Statutory Provision

11. The minister shall, every 5 years, perform a review of this Act and the regulations made under it, the principles upon which it is based and consider the areas in which it may be improved and report these findings to the Lieutenant Governor in Council.

Policy

Responsibility for evaluation of the Act falls within the mandate of the Minister of the Department of Children, Seniors and Social Development. A formal review of the Act, its regulations, and the principles upon which the Act is based must occur every five years from the date of proclamation. In addition, consideration must be given for recommendations to improve the Act. The evaluation process must include consultation with key stakeholders including regional health authority staff.

A provincial **Adult Protection Act** evaluation framework provides guidelines for the collection and analysis of information. This includes the completion of midterm evaluations.

Recommendations from each midterm and five year evaluation of the Act must be approved by the Minister and a plan developed for implementation.

A comprehensive tracking system has been developed and implemented to provide data to inform the evaluation of the Act. Specific issues may be reviewed as they arise and necessary changes made. This may occur at any time throughout each five year period.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 1: Application and Service Principles	Subsection 2.1: Reporting Required
Effective Date:	Revised:

Statutory Provision

12. (1) A person who reasonably believes that an adult may be an adult in need of protective intervention shall immediately give that information, together with the name and address of the adult, if known, to the provincial director, a director, a social worker or a peace officer.
- (2) Where a person makes a report under subsection (1), the person shall report all the information of which they have knowledge.
- (3) Where a report is made to a peace officer under subsection (1), the peace officer shall, as soon as possible after receiving the report, inform the provincial director, a director, or a social worker.
- (4) This section applies notwithstanding that the information is confidential or privileged, and an action does not lie against the person providing the information in good faith unless the information is given maliciously or without reasonable cause.
- (5) Subsection (4) applies to information which is solicitor-client privileged.
- (6) A person shall not interfere with or harass a person who gives information under this section.

Policy

A legal obligation exists for all individuals in the province of Newfoundland and Labrador to immediately report situations of abuse or neglect where an adult may lack capacity and may be in need of protective intervention. This means the individual making the report feels it is likely the adult may be abused, neglected or self-neglected and may not understand or appreciate the risk of harm. The report must be screened to determine whether the description of the situation meets the definition of abuse, neglect or self-neglect pursuant to the Act and whether the adult appears to understand or appreciate the risk.

A report can be made confidentially.

The obligation to report applies to all individuals including those where information may have been obtained from a relationship which would usually be considered privileged,

such as between a solicitor and client. The individual making the report in good faith will not be penalized for doing so.

Failure to report that an adult is in need of protective intervention constitutes an offence under section 32 of the **Adult Protection Act**. A person who does not report may be found guilty of an offence and is liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year in default of payment or to both a fine and imprisonment.

A referral to police must be made by regional health authority staff if criminal activity is suspected.

Procedure

- Information (such as calls, emails, letters) alleging abuse, neglect and/or self-neglect may be received by a variety of sources such as regional health authority staff, peace officers, community-based organizations, private businesses, or private individuals. If the information is received by a source such as community-based organizations, private businesses or private individuals, it must be reported to a peace officer or a regional health authority social worker, coordinator, manager or director.
- If a report is received by a peace officer, the information must be recorded on the **Adult Protection Police Report Form** (see Appendix E) with guidance from the User Guide (see Appendix D). An initial risk assessment is completed in accordance with the Risk Assessment Guidelines and Continuum (see Appendix A). The report must be forwarded **as soon as possible** in accordance with the time frames outlined in the Risk Continuum to a social worker, coordinator, manager, regional director, or the provincial director. Once a report is received within a regional health authority and a decision is made to proceed to evaluation, a response must be made within five clear days as outlined in the Risk Continuum.
- If a report is made directly to a social worker, coordinator, manager, regional director or the provincial director, the information must be recorded on the **Adult Protection Report Form** with guidance from the User Guide. A decision must be made about whether the report meets adult protection criteria. If it does not, it will be screened out with documentation explaining the reason for that decision and providing further detail about any other services offered. If the report does meet adult protection criteria, it will proceed to evaluation. The evaluation must occur in accordance with the time frames outlined in the Risk Continuum. The social worker will consult with a coordinator/manager prior to proceeding with an evaluation.
- Reports may be provided confidentially. If contact information is provided, all names of report sources are kept confidential unless the report source agrees to release their personal information, or the disclosure of the information is ordered by the court.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.2: Evaluation
Effective Date:	Revised:

Statutory Provision

13. (1) A director shall complete an evaluation where they
- (a) receive a report under section 12;
 - (b) are referred a report from a person who received it under section 12;
or
 - (c) reasonably believe that a person may be an adult in need of protective intervention.
- (2) An evaluation shall be completed as soon as possible but no later than 5 clear days of a director receiving a report under section 12.

Policy

The regional director of adult protection or designate must request an evaluation as soon as possible but no later than five clear days after a report is received and accepted to determine whether an adult protection investigation is required. The review of the evaluation by the regional director must be completed as soon as possible in accordance with the level of risk identified initially on the adult protection report form.

As part of the evaluation, a social worker must assess the situation. This includes interviewing the report source if possible, interviewing or observing the adult who may be in need of protective intervention, evaluating the level of risk, and gathering collateral information with consent (see Appendix H for Consent Form).

A social worker must attempt to visit the adult. If this is not possible, the social worker must find ways to engage with the adult to complete the evaluation.

If consent is not given by the adult and the adult appears unable to understand or appreciate the level of risk, the social worker must consult with their coordinator/manager. The coordinator/manager must consult with the regional director and decide whether to proceed with an investigation.

It is important that the adult who may be in need of protective intervention is informed and consulted whenever possible. During evaluation, information from

collateral sources, including interdisciplinary team members, can only be obtained with the consent of the adult.

If the risk of abuse and/or neglect has not been mitigated at the end of five clear days and concerns remain about the adult's capacity to understand and appreciate the risk, the case proceeds to an adult protection investigation in consultation with the regional director.

Procedure

The social worker completes an evaluation using the **Adult Protection Evaluation Form** (see Appendix F) with guidance from the User Guide (see Appendix G). Information from the following sources is used to determine whether an adult protection investigation is required:

Interview the report source (if possible)

The social worker must:

- review adult protection report information;
- refer to police, following consultation with a coordinator/manager, if criminal activity is suspected;
- interview the report source to clarify and expand on information initially received;
- evaluate the relationship between the report source and the adult who may be in need of protective intervention; and,
- identify whether there has been any past involvement with adult protection.

Interview and/or observe the adult who may be in need of protective intervention (with consent)

The social worker must:

- interview and/or observe the adult who may be in need of protective intervention;
- identify and provide, as service provisions permit, assistance the adult may need to communicate during the interview;
- explain the purpose of the interview to the adult;
- evaluate the adult's understanding and appreciation of the alleged abuse and/or neglect; and,
- accurately record the details of the interview.

Assess level of risk

The social worker must:

- continue to assess the level of risk as extremely high, high, moderate or low. The criteria for each level of risk are explained in Appendix A. The level of risk an adult is experiencing is an indicator of whether to proceed with an adult protection investigation. The social worker or the coordinator/manager must consult with the regional director before proceeding;
- prioritize response time dependent upon the level of risk as follows:

- Extremely high priority requires an immediate response;
- High priority requires a response within 24 hours;
- Moderate priority requires a response in 48 hours; and
- Low priority requires a response within 5 clear days.
- Take steps to complete an emergency intervention (see Section 2.10 of the manual for details) and move the adult to a safe place if the level of risk is deemed to be extremely high and an adult's life may be in imminent danger. The social worker or coordinator/manager must consult with the regional director about the procedure to follow.

Gather collateral information

If possible and with the adult's consent, the social worker must:

- consult with the interdisciplinary team to determine whether collateral information supports proceeding with an investigation. This may mean consultation with a family physician, geriatrician, home and community care nurse, occupational therapist or other professionals; and,
- gather information available from supportive sources. For example neighbours and friends might have observed some recent behavioural changes. These changes may be inconsistent with the adult's behavioural history.

Summary

The outcome of the evaluation can result in:

- no further intervention being required as there is insufficient or no evidence to suggest the adult is abused and/or neglected and lacks capacity to understand or appreciate risk; or,
- professional/supportive services being offered and accepted to mitigate risk; or,
- A recommendation to the regional director to proceed with an adult protection investigation as there is evidence to suggest the adult lacks capacity, is at risk due to abuse and/or neglect, and is refusing supportive services. The regional director consults, when possible, with the provincial director prior to ordering an investigation. If not possible, the regional director must inform the provincial director that an investigation is underway as soon as possible.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.3: Investigation
Effective Date:	Revised:

Statutory Provisions

14. (1) Where an evaluation has been completed and a director believes, on reasonable grounds, that the adult is an adult in need of protective intervention, the director shall direct that an investigation be completed.
- (2) Notwithstanding that, following an evaluation, a director is satisfied that there are no reasonable grounds to believe that the adult is an adult in need of protective intervention and that an investigation is not required, the director may, where appropriate, refer that adult to health care, social, legal or other services which may assist the adult.
15. (1) A person who acts as an investigator shall be a social worker or another person or class of persons designated by the minister in the regulations.
- (2) An investigator may act for and in the name of a director or the provincial director and a social worker who is acting as an investigator may, on behalf of a director or the provincial director, appear in court.
16. (1) Where a director requires that an investigation be completed under section 14, a person shall cooperate with that investigation.
- (2) An investigator shall make all reasonable efforts to interview the adult who is the subject of the investigation.
- (3) An investigator may
 - (a) communicate with and assess the adult who may be in need of protective intervention;
 - (b) request that the adult participate in a capacity assessment;
 - (c) require a person to provide information or produce records, documents or other things in that person's possession or control which, in the opinion of the person completing the investigation, may be relevant;
 - (d) solicit, accept and review reports and information from health care providers, persons who or agencies that have provided services to

the adult who is the subject of the investigation, or a person who manages the adult's financial affairs, business or other assets;

- (e) interview anyone who may have information which would be relevant to the investigation; and,
 - (f) require the production of medical or other records respecting the adult who is the subject of the investigation.
- (4) For the purpose of subsection (3), the right to information overrides
- (a) a claim of confidentiality or privilege, except solicitor-client privilege; and,
 - (b) a restriction in an enactment or the common law about the disclosure or confidentiality of information.
- (5) Notwithstanding paragraph (4)(a), an investigator may, in the course of an investigation, require and access information that is solicitor-client privileged where it relates to the report of a solicitor under section 12.

Policy

An adult protection investigation must be completed at the request of a regional director or designate if there is reason to believe an adult lacks capacity; is abused and/or neglected; and has not accepted any supportive services to mitigate risk. This investigation must be completed by a social worker, or in the absence of a social worker, a professional identified in regulations.

If a report is received indicating risk, probable incapacity and alleged abuse, neglect and/or self-neglect, section 16 of the Act provides authority for a social worker or designate to act as an investigator.

At any time during the investigation, the level of risk can escalate to become extremely high. In this instance, emergency intervention, as outlined in section 2.10 of the manual, must occur to move the adult to a place of safety until the investigation can be completed.

At any time during the investigation, it may be difficult to proceed without cooperation from those involved. An application will be made to the court for an order to investigate to allow the investigation to continue (Section 19 of the Act).

At any time during the investigation, it may be determined that risk could be mitigated for the adult with support from a substitute decision maker (**Advance Health Care Directives Act**) or a power of attorney/enduring power of attorney (**Enduring Powers of Attorney Act**). If the adult has a substitute decision maker

and/or enduring power of attorney, it may not be necessary to proceed with an application for protective intervention.

Consent from the adult who may be in need of protective intervention is not required during the investigation. However, in keeping with the service principles of the Act, every effort must be made to involve the adult to the greatest extent possible throughout an investigation.

Information obtained during the investigation must be recorded clearly and accurately in accordance with regional health authority guidelines and provincial adult protection documentation standards. Written records from an investigation may be needed in court proceedings.

Services such as home care, legal and health care, in keeping with available resources, policies and programs, may be offered at any point in the investigation to avoid and/or prevent risk and/or enable the adult to communicate a decision. These services may prevent an adult from needing protective intervention.

Procedure

A social worker, or another professional identified in the regulations, must complete an adult protection investigation by proceeding as follows:

Review records and gather information

The investigator must:

- request and review all relevant records and reports necessary to inform the investigation. Examples include referral report; evaluation report; present and past financial records; and medical information;
- conduct interviews with family, friends and/or neighbours to gather more information to support the records review. These interviews may also reveal any recent changes in the adult's decision-making abilities that are inconsistent with past behaviour;
- consult with other professionals such as physicians, psychologists, neuropsychologists, nurses, physiotherapists, social workers, occupational therapists and police officers to obtain information relevant to the investigation; and,
- refer to police, following consultation with a coordinator/manager, if criminal activity is suspected.

Interview the adult who may be in need of protective intervention

The investigator must:

- explain to the adult why an investigation has been ordered and how the investigation will proceed;
- make every reasonable effort within program guidelines to assist the adult with communicating their understanding and appreciation of the situation. For

example, a trusted friend might act as a spokesperson and help interpret an adult's method of communication; and,

- involve and inform the adult who may be in need of protective intervention to the greatest extent possible throughout the investigation.

Coordinate a capacity assessment (if necessary)

- A formal capacity assessment is completed when an adult who may be in need of protective intervention appears to be unable to understand or appreciate the level of risk and the risk is unable to be mitigated.
- Whenever possible, a social worker must coordinate the completion of a formal capacity assessment. The best capacity assessment is a thorough one involving a team of professionals.
- The investigator will coordinate meetings of the interdisciplinary team, including an initial one to review roles and responsibilities
- The interdisciplinary team agrees on at least one capacity question to be assessed. In some instances, there may be more than one question.
- Each member of the interdisciplinary team will complete a capacity assessment based on the identified question(s).
- Risk may be identified with a particular function such as not being able to manage personal care, prepare meals and/or shop for basic necessities. The assessment may also explore financial risks such as the inability to pay bills, deposit cheques and pay rent.
- The capacity assessment team must meet to review findings and reach a consensus about the capacity question(s).
- Each professional must complete and sign the report representing their discipline.
- The answer to the capacity question(s) is a collective one representing the decision of the entire assessment team.
- It is preferable that a capacity assessment be completed in the adult's home environment.
- It may be necessary for an adult to be assessed medically in an acute care facility. The information from this assessment may inform a capacity assessment.
- Before an adult is interviewed during a capacity assessment, every effort must be made within program guidelines to assist the adult to communicate effectively and/or access the meeting space. Discussion about the adult's unique needs may occur with the adult, the adult's family and/or friends.
- The adult's cultural values, beliefs and practices must be considered throughout the capacity assessment.
- The services of an interpreter or translator may be needed.
- Professional judgment based on knowledge and skills is an integral part of the capacity assessment process.
- The results of the capacity assessment contribute to whether a person may be considered at low, moderate, high or very high level of risk. The results also

determine whether the adult can or cannot make decisions about the present areas of risk.

Coordinate a capacity assessment

Interview Preparation

The social worker/investigator must:

- make every reasonable effort within program guidelines to provide the support an adult will need to communicate. If a spokesperson is present during the interview, that individual must not speak **for** the adult. Rather, the spokesperson must try to help make sure the assessor's questions are understood by the adult and the adult's answers are understood by the assessor;
- review information as provided in the report and evaluation forms (see Appendices C,E and F). This includes details about the alleged abuse and/or neglect and whether an adult appears to appreciate the risks involved;
- review any relevant medical information including the results of any cognitive testing;
- review any records relevant to the specific area being assessed (i.e., financial); and,
- review any functional assessments that may have been completed (i.e., occupational therapy report, physiotherapy report).

Capacity Interview

The investigator must:

- explain to the adult the purpose of the capacity assessment and outline the process to be followed. Be sure to try to use a form of communication the adult understands such as a tool to enhance hearing or a spokesperson to provide communication support;
- determine, using a set of structured questions, whether the adult understands and appreciates the risk they are experiencing and the consequences of their decision; and,
- document the information from the interview(s) including the names of the participants, questions asked and the exact responses to the questions. Clear and accurate record keeping is necessary as it may be used in a court proceeding.

Some indicators of an adult understanding the situation include:

- the adult can describe, through words or another form of communication, the issue and level of risk;
- the adult is able to ask questions, independently or with support, relevant to the topic to clarify understanding; and,
- the adult demonstrates a consistent train of thought throughout the interview through conversation or another form of communication.

It is preferable for the adult who may be in need of protective intervention to participate directly in the capacity interview. However, if the adult refuses to do so,

information can be obtained from collateral sources such as family, friends, neighbours and service providers. Observation of the adult's appearance, living conditions, and behaviour can occur as well.

Collateral Information

- Following the investigator's interview(s), additional information may be needed to help determine an adult's ability to make a decision in certain area(s).
- An occupational therapist, neuropsychologist, physician or other health care professional may be consulted to assess whether the adult is capable of making decisions which may be placing them at risk. Each assessment is completed through the lens of the discipline. For example, an occupational therapist may assess safety from a functional perspective. A physician may explore medical conditions that may impact an adult's ability to make safe decisions. Each assessment must be summarized in writing and signed by the professional. Collectively, these assessments contribute to a comprehensive capacity assessment.
- Each discipline or profession will ask questions and seek answers from different perspectives. For example, a physician's assessment may address the following questions:
 - Does the adult have a diagnosis/disability (physical or mental) affecting capacity? Provide relevant details.
 - Is there a recommended treatment? If yes, please describe.
 - Following treatment, is there a reasonable expectation for improvement that could result in the adult being capable to make decisions? If there is no reasonable expectation for improvement, does the adult lack capacity to make decisions?
- A professional might choose to use a standardized tool to assist with the assessment of capacity. There are numerous tools available and others under development. It is important to note that the choice of tool used is dependent on professional preference and area of capacity being explored.
- Tool(s) results may provide indicator(s) of difficulty understanding and/or appreciating risk. The results of tools may signal the need for further assessment. Results of tools are not meant to be used as the sole indicator of an adult's capacity for decision-making. Results of previously administered tools may be sufficient to assist in the evaluation process, or may be used as a baseline.
- Functional assessments may also be needed. It may be necessary to assess the adult's ability to safely manage their daily routine. A community health nurse may complete an assessment of activities of daily living. An occupational therapist may assess the adult's ability to manage personal care, prepare meals and administer medications.
- Historical information can be gathered from interviews with neighbours, family and friends. This information can highlight any changes with the adult that are inconsistent with his or her lifelong patterns of behaviour.
- Information from staff at institutions such as banks can identify recent high risk changes inconsistent with the adult's previous way of conducting business.

When the investigation is concluded, an investigation report must be completed. The report will follow the format outlined in the Adult Protection Investigation Template (see Appendix I). A copy of the investigation report must be forwarded to the provincial office within thirty days of completion.

Summary

The outcome of the investigation will result in either:

- no further involvement;
- professional/supportive services being offered and accepted to reduce risk; or,
- An application being made to the court by the provincial director for an order to declare an adult in need of protective intervention following consultation with the regional director.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.4: Warrant: Entry
Effective Date:	Revised:

Statutory Provision

17. (1) A judge may issue a warrant authorizing a director or an investigator named in the warrant to enter on lands or premises and exercise a power referred to in section 16 where the judge is satisfied on evidence under oath that there are reasonable grounds to believe that entry on the lands or premises is necessary to assess the person who is the subject of the investigation or access, copy or remove documents necessary for the investigation and
- (a) that the director or investigator has been denied entry to the lands or premises or has been obstructed in exercising a power under section 16 with respect to the lands or premises; or,
 - (b) there are reasonable grounds to believe the director or investigator will be denied entry to the lands or premises or obstructed in exercising a power with respect to the lands or premises.
- (2) A warrant issued under subsection (1) shall
- (a) specify the times, which may be during the day or night, during which the warrant may be carried out; and,
 - (b) state when the warrant expires.
- (3) A judge may extend the date on which a warrant expires for those additional periods as the judge considers necessary.
- (4) A judge may receive and consider an application for a warrant or extension of a warrant under this section without notice to the owner or occupant of the land or premises to which it applies.
- (5) A director or an investigator authorized under a warrant issued under subsection (1) to enter land or premises may call on peace officers as necessary and may use force as necessary to make the entry and take the action authorized in the warrant.
- (6) A director or an investigator named in a warrant issued under subsection (1) may call on other persons considered advisable to assist in the execution of the warrant.

Policy

If the investigator is unable to complete an investigation it may be necessary to obtain a warrant to enter a home, other lands or premises. The investigator prepares a report in consultation with the coordinator/manager and forwards the result to the regional director of adult protection. This report should state the reasons why a warrant is needed. The report is forwarded to legal counsel at the Department of Justice and Public Safety. The report is reviewed and becomes part of an application to the court known as **Information to Obtain a Warrant to Enter** which is presented to the judge. The judge may issue a warrant which specifically states that authority is given to an investigator to enter an adult's home, other lands or premises, by force if necessary, to complete an adult protection investigation. A peace officer must accompany the investigator who executes the warrant.

This investigation includes assessing the adult who is the subject of the investigation and/or accessing, copying or removing documents necessary for an investigation. The warrant must specify the times when entry can occur.

Procedure

The process to obtain a warrant to enter the adult's home, other lands or premises is as follows:

- The investigator must consult with their coordinator/manager/regional director of adult protection, and if possible, the Provincial Director of Adults in Need of Protective Intervention to decide whether to proceed with an application for a warrant.
- The investigator must prepare a written report which will be included in an application to court. Included in the report are:
 - The reasons why the warrant is needed For example, a list of the unsuccessful attempts made to enter the home;
 - The reasons why the director believes the adult is in need of adult protection such as the adult might lack capacity and/or might be abused or neglected; and,
 - Details about the perceived level of risk to the adult.
- Careful consideration must be given to how much time will be required to execute the warrant, as there is an expiry date for the warrant.
- Legal counsel with the Department of Justice and Public Safety must review the accuracy of the investigator's prepared report.
- Legal counsel must document the information from the report on the **Information to Obtain a Warrant to Enter** form and file the application with the court.
- Arrangements must be made by legal counsel to submit the application to Provincial Court or the Supreme Court of Newfoundland and Labrador, Trial Division. The investigator must be present in court when the application is heard.

- A judge must review the application and determine whether to grant a **Warrant to Enter**.
- If the warrant is issued, the investigator, who will request assistance from a peace officer, must serve the warrant on the adult to whom the warrant applies.
- The original **Information to Obtain a Warrant to Enter** is retained by the court as well as a copy of the **Warrant to Enter**.
- The social worker/investigator must place copies of the entire court application including a copy of the **Warrant to Enter** on the separate adult protection file with notation of when the warrant was served and by whom.
- A copy of the **Warrant to Enter** is served on the person against whom the warrant is executed.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.5: Tele-warrant
Effective Date:	Revised:

Statutory Provision

18. (1) Where, in the opinion of a director or investigator it would not be practical to appear in person before a judge to apply for a warrant, the director or investigator may make the application by telephone or other means of telecommunication.
- (2) Where a director or investigator enters on land or premises under the authority of a warrant obtained under this section, the director or investigator shall provide the person who is the owner or occupier of that land or premises with a facsimile of the warrant.
- (3) In subsection (2), "facsimile" includes a record produced by electronic means or a written record of a telephone conversation made by both parties to the conversation while it is in progress and which the parties have confirmed as to its accuracy by reading their record of the conversation to one another at the end of the conversation.

Policy

If the investigator is unable to complete an investigation and unable to appear before a judge in person, it may be necessary to obtain a tele-warrant to enter a home, other lands or premises. The investigator may make an application for a warrant by telephone or other means of telecommunication such as facsimile.

Procedure

The process for an investigator to obtain a tele-warrant to enter the adult's home, other lands or premises is as follows:

- Consult with the coordinator/manager/regional director of adult protection and, if possible, the provincial director of adult protection prior to proceeding.
- Document information needed including:
 - the reasons why the tele-warrant is needed. For example, a list of the unsuccessful attempts made to enter the home, other lands or premises;
 - the reasons why the director believes that the adult is in need of adult protection such as the adult might lack capacity and/or might be abused or neglected; and,
 - the reasons why the application cannot be made in person.

- Careful consideration must be given as to how much time will be required to execute the tele-warrant, as there is an expiry date for the tele-warrant.
- Legal counsel with the Department of Justice and Public Safety must review the investigator's prepared report.
- The investigator must read the information recorded on the **Information to Obtain a Tele-warrant to Enter** form to the judge. The investigator/designate shall give that information under oath or affirmation, which may be administered by telephone.
- If the judge in a specific area is not available to issue a tele-warrant, any Provincial Court judge named on the on-call list, supplied by the Chief Judge, may be contacted.
- If the judge issues the tele-warrant, the judge must fill in a **Tele-warrant to Enter** form and submit it by electronic means to the social worker/investigator/designate; or state over the phone the words to be inserted by the social worker/investigator/designate on the **Tele-warrant to Enter** form.
- Before concluding the conversation, the judge and the investigator/designate should review notes from the telephone conversation for accuracy.
- The investigator, who will request assistance from a peace officer must provide a copy of the tele-warrant on the adult to whom the tele-warrant applies.
- The original **Information to Obtain a Tele-warrant to Enter** is retained by the court as well as a copy of the issued **Tele-warrant to Enter**.
- The investigator must place copies of the entire court application including the **Tele-warrant to Enter** on the adult's separate adult protection file with notation of when the tele-warrant was served and by whom.
- A copy of the **Tele-warrant to Enter** is provided to the person against whom the tele-warrant is executed.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.6: Application and Orders re: Investigation
Effective Date:	Revised:

Statutory Provision

19. (1) Where it may be necessary during the course of an investigation, a director may apply to a court for an order under subsection (2).
- (2) A judge may make an order
- (a) requiring the release of information referred to in section 16;
 - (b) requiring a medical assessment by a health care professional;
 - (c) requiring a capacity assessment by a person approved to perform it under subsection 6(5);
 - (d) allowing a person performing an assessment under paragraph (b) or (c) to enter into a premises to perform that assessment;
 - (e) requiring auditing or other financial evaluation of assets;
 - (f) requiring that the adult who may be an adult in need of protective intervention be removed from the place of residence; or
 - (g) that the judge considers necessary

where the judge is satisfied on evidence under oath that there are reasonable grounds to believe those actions are required to assess the adult who is the subject of the investigation, or their assets.

Policy

If the investigator is unable to complete components of an investigation it may be necessary to obtain an **Order to Conduct an Investigation**. A report is completed in consultation with Department of Justice and Public Safety legal counsel. This report must describe the efforts made by the investigator, without a court order, to obtain information and/or seek cooperation from others, including the adult who may be in need of protective intervention. This report informs an **Application to Conduct an Investigation** which is made to the court. A judge reviews evidence and issues an **Order to Conduct an Investigation** with notice provided to the adult about whom the **Order to Investigate** has been granted. The order may require the release of information; completion of assessments including medical, capacity and financial; access to a premises and/or removal of the adult in need of

protective intervention from their current residence. The judge may issue any order that they consider necessary where the order is required to assess the adult who is the subject of the investigation, or their assets.

Procedure

The investigator, in consultation with their coordinator, manager, regional director, and legal counsel, must complete a report to be used in an **Application to Conduct an Investigation**. This report must be presented as an affidavit which is a recorded statement of facts made under oath or affirmation where the investigator must:

- outline the level of risk the adult is experiencing, including indicators of abuse, neglect and/or self-neglect;
- outline the indicators that question the adult's ability to understand and/or appreciate the level of risk;
- outline specific efforts made without a court order to obtain the information necessary to complete an adult protection investigation; and,
- state why actions are required to assess the adult who is the subject of the investigation, or their assets.

Components of an **Order to Conduct an Investigation** may include:

- **Release of information:** An adult protection investigation includes interviews by the investigator with the adult who may be in need of protective intervention, interviews with family and friends and reviews of relevant records (e.g., financial) and reports (e.g., medical). A court order must state that all relevant information needed for the investigation is to be released.
- **Completion of a medical assessment:** An understanding of an adult's diagnosis and/or disability must inform the investigation as well any temporary health issues, such as a urinary tract infection or a delirium which can be diagnosed and treated. An adult may be brought to a hospital emergency department for a medical assessment.
- **Completion of a capacity assessment:** If an adult is unable to demonstrate understanding and appreciation of their current level of risk, a social worker may receive a court order to coordinate the completion of a capacity assessment. This must include involvement from a team of professionals as outlined in subsection 2.3 of this manual.
- **Completion of a financial evaluation of assets (including auditing):** The investigator must protect the adult's financial assets from harm and/or financial abuse. If the investigator suspects there is some emergency intervention needed to protect financial assets, they should take steps to have the provincial director contact the public trustee as per section 24 of the Act.
- **Access to complete an assessment:** A professional completing any part of the assessment must have access to the adult who may be in need of protective intervention on/in any lands or premises. If necessary, a court order must grant this access. Risk to the professional must be assessed and, if

necessary, a peace officer should accompany the professional to the premises.

- **Removal of the adult to a place of safety:** The investigator must assess the adult's level of risk to determine whether a court order is needed to remove the adult from their current residence. If required, an **Information to Obtain a Warrant to Remove** (or an **Information to Obtain a Tele-warrant to Remove**) must be completed and a peace officer must accompany the social worker. The **Warrant to Remove** (or **Tele-warrant to Remove**) must state that the peace officer can physically remove the adult to a place of safety. The warrant must identify where the adult is to be taken. If the adult is moved to a residence (e.g., long-term care home, hospital) while the investigation is ongoing, a copy of the court order authorizing the move must be placed on the adult's medical chart.

A court order might need to be altered, renewed or cancelled. The investigator must consult with their coordinator, manager, regional director, and provincial director, where possible, as well as legal counsel to prepare a new court application to submit to the court to make any changes.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 2: Adult in need of protective intervention	Subsection 2.7: Action Following Investigation
Effective Date:	Revised:

Statutory Provision

20. (1) Where, following an investigation, a director believes that an adult is in need of protective intervention, the director
- (a) may
 - (i) report the matter to police,
 - (ii) make an application for a warrant to remove the adult to a place of safety under section 23,
 - (iii) remove the adult to a place of safety without a warrant under the authority of subsection 23(3), or
 - (iv) provide or arrange for support services consistent with the service plan prepared under paragraph (b); and,
 - (b) shall
 - (i) prepare a service plan for that adult based on criteria set by the minister, and,
 - (ii) report that belief to the provincial director.
- (2) Where the provincial director receives a report under subparagraph (1)(b)(ii), the provincial director may
- (a) report the matter to police; or
 - (b) apply to the court for an order, as appropriate.

Policy

A regional director must consult with the provincial director when an investigation indicates an adult may be in need of protective intervention and an application for declaration may be needed. A report to police must be made if criminal activity is suspected. Where the provision of professional and supportive services in the adult's current living arrangement will not eliminate the risk associated with the alleged abuse or neglect, the adult who lacks capacity must move to a place of

safety. If the adult is not agreeable to move to a place of safety, it will be necessary to obtain a **Warrant to Remove** prior to moving the adult. A police escort may be necessary.

Emergency intervention allows for immediate removal of the adult to a place of safety (see subsection 2.10 of the manual for details). However, an application for a **Declaration of an Adult in Need of Protective Intervention** must be made within two clear days of when an adult is removed under emergency intervention.

When a decision is made to make an application to court for declaration, the regional director must designate a social worker to write a plan stating details of the services required to meet the care needs of the adult (see subsection 3.1 of the manual for an outline of the content of the service plan). This service plan will become part of the application for declaration.

The provincial director assumes the responsibility to apply to the court for an order to have the adult declared in need of protective intervention under section 21 of the Act. In the absence of the provincial director, this responsibility may be delegated to the regional director.

In the interim, while the adult is awaiting a hearing for declaration, decisions about the adult's care and custody will be made by the regional director, in consultation with the provincial director, when necessary. If health care decisions are required, section 10 of the **Advance Health Care Directives Act** will apply in the absence of a substitute decision maker.

If a critical incident (i.e. life or health is in danger) occurs with the adult when the adult is awaiting a hearing for declaration, regional health authority policies for addressing such incidents must be followed.

Procedure

- The investigator must prepare a report for their coordinator, manager, and the regional director that will outline the findings of the adult protection investigation (See Appendix I for the **Adult Protection Investigation Template**). This report must:
 - explain the reasons supporting the belief the adult should be declared in need of protective intervention;
 - describe the risk factors and the adult's lack of capacity to understand or appreciate the current level of risk (a copy of a formal capacity assessment report will accompany the investigation report, if applicable);
 - describe the specific indicators that are causing the adult to experience abuse and/or neglect; and,
 - include collateral information to support findings (such as medical reports, occupational therapy reports and historical information from neighbours and friends).

- The regional director must report to police when criminal activity is suspected.
- If a **Warrant to Remove** is required, the investigator provides a written report which informs an affidavit (sworn testimony) for the Department of Justice and Public Safety's legal counsel to obtain the **Warrant to Remove** to move an adult to a place of safety. The process to obtain a warrant to remove (or tele-warrant to remove) is as follows:
 - The investigator must consult with their coordinator, manager/regional director of adult protection, and if possible the provincial director, to decide whether to proceed with an application.
 - The investigator must prepare a written report to inform an application to the court known as an **Information to Obtain a Warrant (Tele-warrant) to Remove**. Included in the report are:
 - the reasons why the warrant/tele-warrant is needed;
 - the reasons why the adult may lack capacity and/or may be abused or neglected; and,
 - details about the perceived level of risk.
 - Careful consideration must be given to how much time will be required to execute the warrant/tele-warrant, as there is an expiry date for the warrant/tele-warrant.
 - Legal counsel with the Department of Justice and Public Safety must review the investigator's prepared report.
 - Legal counsel must document the information from the report on the **Information to Obtain a Warrant to Remove (or Tele-warrant to Remove)** form and file the application with the court (see Appendix J for a link to this form).
 - Arrangements must be made by legal counsel to submit the application to Provincial Court or the Supreme Court of Newfoundland and Labrador, Trial Division. The investigator must be present in court.
 - A judge must review the application and determine whether to grant a **Warrant to Remove (or Tele-warrant to Remove)**.
 - Once the **Warrant to Remove (or Tele-warrant to Remove)** is received, the investigator, with assistance from a peace officer, must serve the warrant/tele-warrant on the adult to whom the warrant/tele-warrant applies and immediately move the adult to a place of safety.
 - The original **Information to Obtain a Warrant to Remove (or Tele-warrant to Remove)** is retained by the court as well as a copy.
 - The investigator must place copies of the entire court application including a copy of the **Warrant to Remove (or Tele-warrant to Remove)** on the adult's regional health authority file with notation of when the warrant was served and by whom.
- If the adult's life or health is in imminent danger, an emergency intervention can occur (see subsection 2.10 of the manual for details).
- A social worker must prepare a service plan outlining the care needs required to reduce the adult's level of risk if the adult is declared in need of protective intervention (see subsection 3.1 of the manual for details about the content of a service plan).

- While awaiting the hearing for declaration, if a critical incident (i.e. life or health is in danger) occurs involving the adult, an Occurrence Report will be completed as part of the Client Safety Reporting System (CSRS). Regional health authority procedures will be followed to mitigate the incident. Police will be notified if criminal activity is suspected. The regional director will immediately notify the provincial director of the incident.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 2: Adult in need of protective intervention	Subsection 2.8: Application for Declaration
Effective Date:	Revised:

Statutory Provision

21. (1) Where the provincial director receives a report under section 20 indicating that an adult is believed to be an adult in need of protective intervention, the provincial director may apply to the court for a declaration that the adult is in need of protective intervention.
- (2) A hearing under this section shall be held within 30 clear days of the filing of the application under subsection (1).
- (3) A capacity assessment shall accompany an application under this section.
- (4) Notice of the time and place of a hearing under this section shall be served not later than 10 clear days after the date for holding the hearing is obtained from the court
- (a) on the adult who is the subject of the application; and,
- (b) where the adult who is the subject of the application resides
- (i) in a personal care home, on the licensee of the personal care home,
- (ii) in a community care facility, on the owner of the community care facility, or,
- (iii) in a long-term care facility, on the administrator of the long-term care facility.
- (5) The provincial director shall notify the following persons of the date of a hearing under this section:
- (a) a person with whom the adult who is the subject of the application resides, if appropriate; or,
- (b) the next of kin of the adult who is the subject of the application, and where the next of kin are determined to be the children of the adult, efforts shall be made to notify all of those children.

- (6) The provincial director may make an application to dispense with the requirement for notice under subsection (5), and the court may make the order considered appropriate in the circumstances.
- (7) Where an application is made under subsection (1), a judge may make an order under section 22.
- (8) Not later than 5 clear days before a hearing under this section, the provincial director shall file a service plan for the adult who is the subject of the application with the court and shall provide a copy to those persons to whom notice of the hearing has been served or given.
- (9) Not later than 2 clear days before the hearing under this section, the persons to whom a copy of a plan has been given under subsection (8) may respond to the plan and file an alternate written plan with the court and provide a copy to the provincial director.
- (10) An adult who is the subject of an application under this section has a right to be heard, directly or indirectly, in all proceedings relating to the application, and that adult may be consulted in private.
- (11) Notwithstanding another provision of this section, where an application is made further to an emergency intervention under section 23, notice required under this section may be given as soon as possible, and the lack of notice does not impair an application under this section.
- (12) The onus of proving the adult is an adult in need of protective intervention is on the provincial director.

Policy

The Provincial Director of Adults in Need of Protective Intervention may make an application to the court for a declaration that an adult is in need of protective intervention. If a formal capacity assessment has been completed as part of the adult protection investigation, a copy of the report must accompany the application for declaration. A time frame for scheduling the hearing and notifying those involved shall be as outlined in section 21 of the Act.

The provincial director and staff involved with the adult protection investigation must have legal counsel. The adult who may be in need of protective intervention must have independent legal counsel and has a right to be heard in the court proceedings to the greatest extent possible.

It is the responsibility of the provincial director to prove that an adult is in need of protective intervention.

Procedure

Having reviewed the report from the regional director, the provincial director may apply to the court for a declaration that the adult is in need of protective intervention. An originating application must be made to the court which will contain information about the results of the adult protection investigation, including a capacity assessment (if applicable) and service plan.

A court hearing must be held within 30 clear days of filing the application. The provincial director and all staff involved with the adult protection investigation must be represented by legal counsel through the Family Litigation Division of the Department of Justice and Public Safety. The adult who may be in need of protective intervention must have independent legal counsel. If the adult is unable to hire a lawyer privately, eligibility for legal counsel must be assessed by the Mental Health Office of the Legal Aid Division of the Department of Justice and Public Safety.

At an adult protection court hearing, the investigator:

- may be called as a witness by legal counsel representing the provincial director or the adult;
- must be familiar with the information contained in their affidavit;
- must be present to answer questions about the investigation; and,
- must be present to answer questions about the service plan.

The adult who may be in need of protective intervention must be notified about the time and place of the hearing no later than 10 clear days after the day the hearing is scheduled. If the adult resides in a personal care home, the licensee of the personal care home must be notified. If the adult lives in a community care facility, the owner of the community care facility must be notified. If the adult lives in a long-term care facility, the administrator of the facility must be notified.

The provincial director must notify the person with whom the adult resides of the date of the hearing. The provincial director must also notify the adult's next of kin of the date of the hearing. If the children of the adult are involved, efforts must be made to contact all children. If considerable risk exists between the adult and the person with whom the adult resides and/or the adult's next of kin, the provincial director may make a court application to proceed without contacting the person with whom the adult resides and/or the adult's next of kin.

A service plan outlining the intervention needed to reduce risk for the adult in need of protective intervention must be filed with the court no later than 5 clear days before the hearing. The adult who is the subject of the plan must receive a copy at the same time. The adult may respond to the plan by submitting comments to the court no later than 2 clear days before the scheduled hearing.

All people who have received notice of the court hearing must receive the service plan.

The adult has the right to file their own service plan. If the adult files a service plan, the social worker must review, understand and evaluate the plan. The social worker must share the adult's service plan with legal counsel prior to the court hearing.

In the event of emergency intervention (see Section 2.10 of the manual) notice must be provided as soon as possible.

Following the court hearing, the social worker must implement any orders that accompany the declaration of an adult in need of protective intervention.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.9: Order of Court
Effective Date:	Revised:

Statutory Provisions

22. (1) Upon hearing an application under section 21, where a judge finds that the adult is in need of protective intervention, the judge may so declare and may, where it appears in the best interests of that adult, make an order
- (a) that the adult
 - (i) continue to live independently subject to supervision by a director,
 - (ii) remain where the adult is living in the care and custody of the person in whose care they may be, subject to supervision by a director,
 - (iii) be removed to the home of some suitable person and committed to the care and custody of that person, subject to supervision by a director, or,
 - (iv) be committed to the care and custody of the provincial director, who may make decisions on behalf of the adult, including health care decisions; and,
 - (b) requiring the payment of support by a spouse or co-habiting partner of a person declared to be an adult in need of protective intervention.
- (2) An order made under subparagraphs (1)(a)(ii) or (iii) may contain conditions which apply to the person with whom the adult is placed, but shall not contain conditions which apply to the provincial director, a director, a social worker, a regional health authority, or the department.
- (3) An order made under subparagraph (1)(a)(iv) shall not contain conditions.
- (4) Where there is a pension or other income payable to
- (a) an adult who has been declared to be an adult in need of protective intervention; or,

- (c) a person responsible for the support of an adult who has been declared to be an adult in need of protective intervention,

and the pension or other income is capable of being attached, a judge may, after giving a person referred to in paragraph (a) or (b) an opportunity of being heard, order that the part of the pension or other income that the judge considers appropriate be attached and be paid to a person that the judge may direct.
 - (5) The order under subsection (4) is authority to the person by whom the pension or other income is payable to make the payment so ordered, and the receipt of the person to whom the payment is ordered to be made shall be a sufficient discharge to the person by whom the pension or other income is payable.
 - (6) For the purpose of subsections (4) and (5), income includes pension income, savings and other assets.
 - (7) A judge may order that a person who is found to be a source of neglect or abuse to the adult in need of protective intervention
 - (a) stop living in and stay away from the premises where the adult in need of protective intervention lives, where the person is not the owner or lessee of the premises;
 - (b) not visit, communicate with, harass, or interfere with the adult in need of protective intervention; or,
 - (c) cease all contact or association with the adult in need of protective intervention and have no further involvement in their affairs, business dealings or estate.
 - (8) Where there is a material change in the circumstances of the adult in need of protective intervention, a person may make an application to vary or terminate the order or to make a new order, and unless the application relates to the termination of an order, an updated service plan shall be filed with the court.
 - (9) Where an adult has been declared in need of protective intervention, the provincial director shall send a notice to the public trustee in accordance with section 22.1 of the **Mentally Disabled Persons' Estates Act**.
38. The **Mentally Disabled Persons' Estates Act** is amended by adding immediately after section 22 the following:

Notice to be sent to public trustee

- 22.1 (1) A director appointed under the **Adult Protection Act** shall, in accordance with subsection 22(9) of that Act, notify the public trustee where an adult has been declared to be in need of protective intervention under that Act, and the notification shall contain
- (a) the name, address and, where known, the age of that person;
 - (b) the date the person was declared to be in need of protective intervention;
 - (c) the names, known to the director, of members of the immediate family and other close relatives of that person; and,
 - (d) information which the director may possess that could assist the public trustee in locating property owned or held by that person.
- (2) A notice which is sent under subsection (1) shall be sent within 14 days after the date the person was declared to be in need of protective intervention.
- (3) The public trustee is the guardian of the estate of a person referred to in subsection (1) from the date on which the notice is sent under that subsection as the public trustee had been appointed guardian under subsection 3(1), and the public trustee is the guardian of that estate until
- (a) the court or a judge makes an order appointing another person to be the guardian or confirming the appointment of a person who had been appointed guardian before the public trustee received the notice; or,
 - (b) the public trustee is discharged by the court or a judge under section 19.

Policy

Following the hearing, a judge may declare an adult to be in need of protective intervention. The judge may further order that the adult continue to live independently subject to supervision by a director; remain where the adult is living in the care and custody of the person in whose care they may be, subject to supervision by a director; be removed to the home of some suitable person and committed to the care and custody of that person subject to supervision by a

director; or be committed to the care and custody of the provincial director. The judge may also order where the adult shall live, how the adult's income and expenses are to be managed, and/or conditions regarding communication between the adult declared in need of protective intervention and the person who is a source of abuse/neglect.

Once the adult is declared to be in need of protective intervention, the provincial director must notify the public trustee who must manage the estate of the adult. This remains in effect until a court or judge appoints another manager of the adult's estate, or the public trustee is discharged by the court.

Procedure

When an adult is declared by a judge to be in need of protective intervention, the adult must be deemed to lack capacity to mitigate the risk of the abuse or neglect. The adult's lack of capacity is decision-specific. The adult may lack capacity in some areas but not others. During a formal capacity assessment, the specific capacity question(s) about the risk areas must be developed for the team to assess. The service plan to mitigate risk must be developed to address the specific areas where the adult lacks capacity. Efforts must continue to work with the adult to the greatest extent possible to encourage independence in areas where the adult maintains capacity.

When the judge declares an adult to be in need of protective intervention, that judge must issue an order stating where the adult will live. The adult will contribute to this decision to the greatest extent possible. The options include:

- The adult will continue to live independently under supervision of the regional director or designate. A service plan must be developed stating the services needed to reduce the risk that has contributed to the need for protective intervention.
- The adult will remain in the care and custody of the person with whom they currently live, subject to supervision of the regional director or designate. The service plan must clearly outline what is needed to reduce risk; define the responsibilities of the caregiver in relation to the needs of the adult; and, identify any other conditions as outlined in the court order.
- The adult is to be removed from their current residence and placed in the home of a caregiver subject to supervision of the regional director or designate. The service plan must clearly outline what is needed to reduce risk; define the responsibilities of the caregiver in relation to the needs of the adult; and, identify any other conditions as outlined in the court order.
- The adult is placed in the care and custody of the Provincial Director of Adults in Need of Protective Intervention. The provincial director will make decisions, including health care decisions, on behalf of the adult.

A service plan must clearly outline what is needed to reduce risk. The most supportive and least restrictive living environment must be pursued with the adult.

This could range from independent living to a long-term care placement. If the adult becomes a resident of a facility, the service plan must be reviewed with the staff to ensure the adult's care needs are met. The provincial director must be informed if there is a significant change in the adult's life that could impact the service plan. A copy of the plan must be placed on the adult's regional health authority file/chart.

When the judge declares an adult to be in need of protective intervention, that judge may issue an order about how the adult's income (including pension income, savings and other assets) and expenses are to be managed. This information must be included in the service plan.

- If the adult is living independently or under the care and custody of a designated person, the judge may order that any pension or other income be paid to either the adult or caregiver. The order provides authority so that the issuer (e.g. Old Age Security, Income Support) of the income must comply.
- If the provincial director is awarded the care and custody of the adult, the provincial director must send a notice to the public trustee within fourteen days. Notification must include information as outlined in Section 22.1 of the **Mentally Disabled Persons' Estates Act** (see Appendix B for a link to the Act).

When the judge declares an adult to be in need of protective intervention, that judge may issue an order about conditions regarding communication between the person who is the source of abuse/neglect and the adult.

The source of abuse/neglect may be ordered to stay away from the adult. This may include the source of abuse/neglect no longer living in the same residence if that source does not own or lease the residence.

The source of abuse/neglect may be ordered to not visit, communicate with, harass, or interfere with the adult in need of protective intervention.

The source of abuse/neglect may be ordered to have no further involvement with the adult's affairs, business dealings, or estate.

This information must be included in the adult's service plan.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.10: Emergency Intervention
Effective Date:	Revised:

Statutory Provisions

23. (1) Where a director or social worker believes

- (a) that an adult is in need of protective intervention; and,
- (b) a less intrusive course of action that would adequately protect the adult is not available,

the director or social worker shall file an application with the court for a warrant to remove that adult.

(2) Where satisfied on the basis of the director's or social worker's sworn information that there are reasonable grounds to believe that

- (a) an adult is in need of protective intervention; and,
- (b) a less intrusive course of action that would adequately protect the adult is not available,

a judge may issue a warrant authorizing the director or social worker to enter a premises or vehicle or board a vessel or aircraft, by force if necessary, to remove the adult.

(3) Notwithstanding subsection (1), where a director or social worker has reasonable grounds to believe there would be an immediate risk to the adult's health and safety if no action were taken during the time required to obtain a warrant, the director or social worker may enter a premises or vehicle or board a vessel or aircraft, by force if necessary, to remove the adult without a warrant.

(4) At the request of a director or social worker, a peace officer shall assist in enforcing a warrant issued under subsection (2), or if a warrant is not obtained, the peace officer shall assist a director or social worker under subsection (3).

(5) A warrant issued under subsection (2) need not describe the adult by name or specify a particular premises.

- (6) An application under this section may be made by telephone or other means of telecommunication, and section 18 applies with the necessary changes to the manner of obtaining that tele-warrant.
- (7) A copy of the warrant or tele-warrant shall be given to
 - (a) the adult who is the subject of the warrant;
 - (b) the person from whose premises the adult is removed, if applicable; and
 - (c) the provincial director.
- (8) Where an adult is removed from their premises to another place and it appears to a director or social worker that there is danger of loss of, or damage to, property of the adult because of the adult's temporary or permanent inability to deal with their property, and that no other suitable arrangements have been or are being made for the purpose, it is the duty of the director or social worker to take reasonable steps to prevent or mitigate the loss or damage.
- (9) A director or social worker has power at reasonable times to enter premises which immediately before the adult's removal were the adult's place of residence or usual place of residence, and to deal with property of the adult in a way which is reasonably necessary to prevent or mitigate loss or damage.
- (10) A director or social worker may recover from the adult, or from a person liable to maintain the adult, reasonable expenses incurred by the director or social worker under subsection (9).
- (11) The provincial director shall, within 2 clear days of an adult being removed
 - (a) under the authority of a warrant issued under subsection (2); or,
 - (b) under the authority of subsection (3)

make an application to a court under section 21 and a court shall hear that application within 2 clear days of the making of the application.

- 24. (1) Where the provincial director reasonably believes that an urgent situation exists in which a person who is evidently an adult in need of protective intervention but has not yet been declared as such
 - (a) is unable to manage his or her affairs or assets; and,

- (b) there is immediate danger of substantial damage to or substantial loss of those assets,

the public trustee may, at the request of the provincial director, intervene in a manner and to the degree that may be demonstrably necessary to temporarily prevent or contain that loss or damage.

- (2) Where the public trustee takes the action referred to in subsection (1), the public trustee shall, within 3 clear days of taking that action, apply to a court and the court shall hear that application within 5 clear days of the making of the application.

Policy

Emergency intervention may be necessary to remove an adult to a place of safety if an adult's life or health is in imminent danger. Following an initial evaluation, the regional director must believe there are indicators of abuse, neglect and/or self-neglect; the adult does not appear to understand or appreciate the level of risk; and, there is no less intrusive option available than to remove the adult to a place of safety. Temporary emergency placement may be necessary in a long-term care facility or an alternate community residence. Emergency medical treatment may be needed at a hospital.

If no action was taken during the time required to obtain a **Warrant to Remove (Tele-warrant to Remove)** and the risk to the adult's health and safety is extremely high, the adult can be removed to a place of safety immediately.

The provincial director must apply to the court for a protective intervention hearing within 2 clear days after the day the adult has been removed. The court must hear the application within 2 clear days after the day the application was filed.

If the adult's assets need to be secured prior to the hearing for declaration, the provincial director will ask the public trustee to intervene to prevent a loss of assets. Following this intervention, the public trustee will make application to court within 3 clear days. Within 5 clear days, a court hearing must take place.

Procedure

The social worker, in consultation with their coordinator, manager and regional director must:

- review the results of the initial evaluation as outlined on the Adult Protection Evaluation Form (see Appendix F). This must include information obtained from interviewing the report source, interviewing and/or observing the adult who may be in need of protective intervention and evaluating the level of risk. Information from collateral sources might also be available, including medical reports and commentary from neighbours and/or friends;

- make a decision to immediately remove an adult who may be in need of protective intervention to a place of safety. The decision must be determined by the level of risk present that indicates there is an immediate risk to the adult's health and safety and any least intrusive form of support (e.g., home support services) will not alleviate that danger;
- accompany a peace officer to the adult's home to remove the adult to a place of safety. Every effort will be made to remove the adult peaceably to a place of safety. However if this is not possible, the peace officer ensures the adult is removed safely. The method of transportation used to take an adult to a place of safety will vary depending on the situation;
- accompany the adult who appears to need emergency medical attention, to a hospital emergency department. The attending physician must be advised the adult has been removed from their residence under the authority of the **Adult Protection Act** and a medical assessment must be initiated. At this time, it must be decided whether the adult may be certified for treatment under the **Mental Health Care and Treatment Act**. If the adult is treated under the **Mental Health Care and Treatment Act**, a decision to proceed with an investigation under the **Adult Protection Act** must be evaluated when treatment ends;
- arrange a temporary placement such as a long term-care facility, personal care home, or alternate family care home if necessary; and,
- secure property/assets located at the residence where the adult resided prior to being removed to a place of safety. This includes removing valuables such as cash, cheques, and jewelry. The investigator, accompanied by a witness, must record all removed items and place in a sealed envelope. The signature of the investigator and the witness must be placed across the sealed portion of the envelope. The contents must be clearly marked on the outside of the envelope and all objects must be stored in a safe location within the regional health authority. In addition, the investigator must secure doors and windows.

Once the adult is removed to a place of safety and it has been determined there is a substantial risk for a loss of assets, the provincial director or designate must notify the Office of the Public Trustee who will take such action as determined necessary by the public trustee.

Following the removal of an adult who may be in need of protective intervention to a place of safety, an investigation under the Act must proceed as outlined in subsection 2.3 of the manual.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.11: Appeal
Effective Date:	Revised:

Statutory Provision

25. (1) A person aggrieved by an order of a judge under this Act, or by the refusal of a judge to make an order, may appeal the decision granting or refusing the order, where the judge is a judge of the

- (a) Provincial Court, to the Trial Division; and,
- (b) Trial Division, to the Court of Appeal,

and the provisions of the **Judicature Act** and the **Rules of the Supreme Court, 1986** shall govern the proceedings on the appeal.

- (2) The Trial Division or Court of Appeal to which an appeal is made may set aside or confirm the order referred to in subsection (1) or may make an order that a judge under this Act can make or may, by order directed to the judge from whom the appeal is taken, require that judge to make an order as the circumstances of the case may require.

Policy

An adult, who is the subject of an order, who disagrees with the order of a judge or the judge's refusal to make an order, may appeal the decision. The appeal must be heard by a judge of the Trial Division or the Court of Appeal, depending on the court where the initial order was made.

The appeal proceedings are governed by the **Judicature Act** and the **Rules of the Supreme Court, 1986**.

When the appeal is heard, a decision can be made to confirm an existing order, set aside an existing order; or make a new order.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.12: Proceedings
Effective Date:	Revised:

Statutory Provision

26. (1) A proceeding under this Act
- (a) is civil in nature;
 - (b) may be as informal as a judge may allow; and,
 - (c) shall be held in private, unless otherwise ordered by the judge.
- (2) In a proceeding under this Act, a judge may admit and act upon
- (a) the evidence, including hearsay, that the judge considers relevant and reliable in the circumstances;
 - (b) an oral statement which has been video-taped;
 - (c) a written statement;
 - (d) a report the judge considers relevant, including a transcript, exhibit or finding in an earlier civil or criminal proceeding; and,
 - (e) evidence taken and a declaration made at a prior proceeding under this Act or under a similar statute.
- (3) A proceeding under this Act may be conducted by means of teleconference, videoconference or other means of telecommunication.
- (4) A judge may
- (a) shorten the time period to serve a notice under this Act; or,
 - (b) dispense with a requirement to serve notice of a proceeding under this Act.

Policy

A hearing under the **Adult Protection Act** is a civil proceeding. The judge decides the level of formality for the hearing. The judge will admit and act upon evidence which can include hearsay, videotaped oral statements, written statements,

reports including those from an earlier civil or criminal proceeding, and/or evidence from a prior proceeding under the Act or another statute.

In preparation for a hearing, the investigator/social worker in consultation with their coordinator, manager, regional director and provincial director will complete an originating application which will provide case details in chronological order. The originating application will include a service plan to mitigate the adult's risk as well as a formal capacity assessment (if required) and a request for protective intervention.

The judge may decide whether to shorten the time to serve a notice or to dispense with the requirement to serve a notice under the Act.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 3: General	Subsection 3.1: Service Plan and Review Committee
Effective Date:	Revised:

Statutory Provisions

Service plan

27. (1) A director or designate shall prepare a service plan for every adult who is declared to be an adult in need of protective intervention.
- (2) A schedule of review shall be incorporated into every service plan, and every service plan shall be reviewed at least every 6 months.
- (3) Notwithstanding subsection (2), where there is a material change in the circumstances or condition of the adult in need of protective intervention, that adult's service plan shall be reviewed and modified as necessary
- (4) An adult who is or may be in need of protective intervention has the right to participate in the development of the service plan, including amendments to it.
- (5) Where a person was declared to be a neglected adult under the **Neglected Adults Welfare Act**, a service plan for that person shall be prepared or updated within 6 months of the coming into force of this Act.

Review committee

28. (1) There shall be a review committee which shall review, at least once every year, the service plans of every adult who has been declared to be in need of protective intervention, and that review shall be in addition to another review required under this Act.
- (2) The review committee shall be comprised of the provincial director and all directors appointed by the regional health authorities with duties under this Act.

Policy

A written service plan shall be completed containing details of the services and programs required to reduce risk and meet the care needs of an adult who may be in need of protective intervention (see Appendix K for template). This service plan is developed following an evaluation and investigation. This service plan is presented as part of the Originating Application to Court requesting a hearing for

an order to declare an adult to be in need of protective intervention. Specific orders issued by the judge following a declaration for protective intervention are incorporated in the service plan.

To ensure the adult's level of risk is reduced the service plan must be evaluated and revised by the social worker minimally every six months. Whenever possible, the service plan must be completed and reviewed in consultation with the adult and/or their support person(s). A review of the service plan may occur more frequently if the adult's status changes.

All service plans must be reviewed annually by a review committee consisting of the provincial director, the regional directors of adult protection, and the public trustee. The public trustee will provide a status update about the adult's financial affairs, including information about the adult's income and assets. The review committee will decide whether the declaration remains; the declarations remains with revisions to the service plan; or, the declaration is repealed.

Procedure

The social worker must use an interdisciplinary approach to write a service plan for an adult who may be declared in need of protection. The service plan must be prepared initially following an evaluation and investigation. If the investigation results in a declaration by a judge that an adult is in need of protective intervention, information about the court order(s) must be incorporated into the service plan.

A review committee comprised of the public trustee, the regional directors and the provincial director must annually review the service plan of every adult declared in need of protective intervention. This will provide consistency across regions with the required components of each plan; a regular six month review of each plan; and the inclusion of the adult in the review of their plan to determine whether the services are adequately meeting the adult's care needs. The service plan review will include the adult to the greatest extent possible.

Whether the adult declared in need of protective intervention is supervised by the regional director, or is in the care and custody of the provincial director, the review committee provides the provincial director with a formal mechanism to determine whether each adult's care needs are being met. Following completion of an initial service plan for an adult, there will be a **Service Plan Review Form** completed minimally annually (see Appendix K for template). The **Service Plan Review Form** will be submitted to directors prior to the annual review meeting.

The service plan must include:

- **Date of Service Plan**
- **Basic Demographic Information**
 - Name
 - Address
 - Phone number
 - Age/Date of Birth
 - MCP #
 - Legal Custody
 - Contact person(Regional Director)
 - Next of kin (if known)
 - Date of Declaration of Adult in Need of Protective Intervention (if applicable)
 - Date of Capacity Assessment (if applicable)
- **Service Needs**
 - Describe adult's current level of risk and need for service;
 - Describe the type of assistance provided, if necessary, to support the adult's method of communication;
 - Describe relevant medical/health information;
 - Describe professional services needed (medical, nursing, occupational therapy, physiotherapy, recreation, social work, speech language, etc.);
 - Describe supportive services needed (assistance with activities of daily living, foot care, home support, Meals on Wheels, transportation, socialization, etc.);
 - Outline caregiver responsibilities (assistance with activities of daily living, supervision of adult, implementation of court orders which may include the type of contact the adult may have with their abuser, etc.);
 - Identify cultural and spiritual sensitivities (awareness is needed so they can be incorporated in the plan);
 - Recommend type of living arrangement; and/or
 - Other relevant information.
- **Date of Court Hearing** (to declare an adult in need of protective intervention, if applicable)
- **Court Orders:**
 - Live independently under supervision of regional director;
 - Remain living under the care and custody of the person with whom the adult was living, with supervision from the regional director;
 - Live under the care and custody of a suitable person in another residence and under the supervision of the regional director; or
 - Live under the care and custody of the provincial director of adult protection.
 - Describe any additional court orders (e.g., the role of the public trustee to manage the adult's income and expenses).

- **Date of Service Plan Review**
- **Evaluation of Service Plan:**
 - Complete as needed but minimally every six months;
 - Coordinate the process through the social worker;
 - Evaluate the effectiveness of the professional and supportive services and caregiving responsibilities in reducing the adult's level of risk;
 - Evaluate the effectiveness of the adult's current living arrangement;
 - Identify changes necessary in the delivery of services to meet the care needs of the adult; and,
 - Include the adult and/or their decision-making support person in the evaluation process with reasonable accommodations, if necessary.
- **Recommendations:**
 - Revise services following the review to adequately meet the adult's care needs;
 - Incorporate any recommendations from the annual review of the provincial review committee; and,
 - Provide support, when necessary and within program guidelines, to the adult so they can understand and appreciate the proposed changes to the service plan.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 3: General	Subsection 3.2: Confidentiality
Effective Date:	Revised:

Statutory Provision

29. (1) A person employed in the administration of this Act shall maintain confidentiality with respect to all matters that come to their knowledge in the course of that person's employment and shall not communicate the matters to another person, including a person employed by the government, except
- (a) with the consent of the person to whom the information relates;
 - (b) where the disclosure is required by another Act of the province;
 - (c) for the purpose of complying with a subpoena, warrant or order issued or made by a court, person or body with jurisdiction to compel the production of information;
 - (d) where, in the opinion of a director, the disclosure is in the best interests of the person to whom the information relates;
 - (e) where the disclosure is necessary to the performance of duties or the exercise of powers under this Act;
 - (f) where the disclosure is to the next of kin of the adult in need of protective intervention, where that disclosure is, in the opinion of a director, in the best interests of the person to whom the information relates;
 - (g) where the disclosure is for research approved by a research ethics body; or,
 - (h) for another purpose authorized by the regulations and the information released under this section shall only be used for the purpose for which it was released.
- (2) The department or an authority is not liable for damages caused to a person as a result of the release of information under subsection (1).
- (3) A person shall be denied access to information where

- (a) there are reasonable grounds to believe that the disclosure might result in physical, emotional or financial harm to that person or another person;
 - (b) where the disclosure would identify a person who made a report under section 12; or,
 - (c) the disclosure could reasonably be expected to jeopardize an investigation under this Act or a criminal investigation.
- (4) Where information excepted from disclosure under this section can reasonably be severed, a person who is otherwise permitted to receive information under this section shall be given the remainder of the information.
- (5) A person has a right of access to information or records created or maintained respecting that person in the course of the administration of this Act except where
 - (a) that information would identify a person making a referral under section 12; or,
 - (b) there are reasonable grounds to believe that the disclosure might result in physical, emotional or financial harm to that person or another person.

Policy

The collection, use and disclosure of information under the **Adult Protection Act** (APA) may be subject to the **Personal Health Information Act (PHIA)** and the **Access to Information and Protection of Privacy Act (ATIPPA)**. Maintaining confidentiality of information under the **Adult Protection Act** will supersede the request for information under **PHIA** or **ATIPPA** if it is determined the disclosure could identify a confidential report source; jeopardize an investigation under APA or a criminal investigation; or possibly cause harm to the person or another person.

See Appendix B for a link to **PHIA**, **ATIPPA** and the **Adult Protection Act**.

Confidentiality is to be maintained by employees at all times. The employee, regional health authority, and department are not be liable for damages caused as the result of sharing information for reasons outlined in Section 29 (1).

A person has the right to access their information and records maintained under the Act except when the provincial director has determined that the release of the information would identify the report source or result in physical, emotional and financial harm to that person or another person.

Procedure

All employees involved with the administration of the Act must be familiar with and comply with the relevant sections of the **Personal Health Information Act** and the **Access to Information and Protection of Privacy Act** (see Appendix B for a link to these Acts).

It is the adult's right to have their personal health information kept confidential. Whenever possible, consent for the gathering and release of information must be obtained from the adult who is the subject of the information. Consent by the adult can be oral or written. The investigator must record the adult's consent to release information in accordance with the procedures outlined within the regional health authority where the adult protection investigation is occurring.

Obtaining consent may not always be possible. A social worker evaluating an allegation of abuse or neglect does not have the power to collect, use or disclose information without the adult's consent. However, investigators under the Act may collect, use and disclose certain personal information or personal health information without the individual's consent if an adult appears to lack capacity and is at risk from alleged abuse and/or neglect.

Exceptions to maintaining confidentiality are outlined in section 29 of the Act. For example, disclosure of information could be required by another Act in the province for law enforcement purposes.

Accurate and up to date files must be maintained by the investigator. The information about the adult who may be in need of protective intervention must be stored in a secure working environment. This includes handwritten and electronic records. (See Appendix M)

A person must be denied access to information if there is:

- a level of risk that could result in harm for the adult or another person;
- identification of the report source; or,
- potential jeopardy to an adult protection investigation or criminal investigation.

The investigator, in consultation with their manager, must inform the adult of the process to obtain access to their personal information and records. The adult may be required to make the request for information in writing unless the individual is unable to write or has a condition that impairs the ability to write.

ADULT PROTECTION ACT Provincial Policy Manual	
Section 3: General	Subsection 3.3: Other
Effective Date:	Revised:

Good Faith Protection (Section 30) means an action for damages does not lie against a trustee, an officer or an employee of an authority, an employee of the department or the minister for anything done or omitted in good faith in the performance or intended performance of a duty or the exercise or intended exercise of a power under the Act, or for a neglect or default in the performance, or intended performance, of a duty, or the exercise or intended exercise, of a power, in good faith, under the Act.

Protection of Employee from Reprisal (Section 31) means one or more of the following measures cannot be taken against an employee because the employee has, in good faith, made a report or participated in an investigation as required under the Act: (1) a disciplinary measure; (2) a demotion; (3) termination of employment; (4) a measure that adversely affects their employment or working conditions; or, (5) a threat to take a measure related to the above.

Labrador Inuit Rights (Section 3) The Act shall be read and applied in conjunction with the **Labrador Inuit Land Claims Agreement Act** and, where a provision of the Act is inconsistent or conflicts with a provision, term or condition of the **Labrador Inuit Land Claims Agreement Act**, the provision, term or condition of the **Labrador Inuit Land Claims Agreement Act** shall have precedence over the provision of the Act.

Related Provincial Legislation Throughout the adult protection process, there are times when it is necessary to work with other provincial legislation. This includes the **Advance Health Care Directives Act**, **Personal Health Information Act**, **Access to Information and Protection of Privacy Act**, **Enduring Powers of Attorney Act**, **Family Violence Protection Act**, **Public Trustee Act**.

APPENDIX A

RISK ASSESSMENT GUIDELINES AND CONTINUUM

Guidelines

- Response to an adult's level of risk is assessed on a range from low to extremely high, as determined by the criteria outlined in the risk continuum.
- Evaluation of an adult's level of risk is an ongoing process. For example, an adult initially assessed as experiencing a moderate level of risk can escalate to a high or extremely high level of risk if the issues causing the moderate risk are not addressed.
- When determining whether an adult meets the criteria of an adult in need of protective intervention, a social worker/investigator must use established criteria as outlined in the risk continuum **as well as professional judgment**.
- A risk assessment helps determine whether a capacity assessment is needed.
- The capacity of the adult to understand and appreciate the level of risk is a contributing factor to the decision to proceed with an investigation.
- All types of violence (as referenced in the Act and the **Violence Prevention Initiative** [<http://www.gov.nl.ca/vpi/index.html>]) are reflected in the risk continuum.
- The definition of each level of risk in the continuum includes examples of abuse and neglect that support understanding of that level. The list of examples is not exhaustive.
- An adult's level of risk can be influenced, but not determined by:
 - Alleged abuse and/or neglect;
 - Diagnosis or disability;
 - Inability to communicate effectively;
 - Ability to function with daily routines such as medication compliance, personal care and meal preparation; and/or,
 - Type of involvement from family and/or friends.

Continuum

Extremely High Risk:

- Response time is immediate;
- The adult's life or health is in imminent danger; and/or,
- The adult appears to lack the capacity to understand or appreciate the risks associated with the situation.
- Examples of extremely high risk include:
 - Physical injury that requires immediate medical attention (e.g., fractures, internal injuries, head trauma, burns);
 - Threats to harm the adult;
 - Threats to harm oneself;
 - Destruction of personal property;
 - Danger to others;
 - Deprivation of food, shelter and heat;
 - Deprivation of life saving medication;

- Forced sexual acts;
- Physical injury resulting from an honour crime;
- Abandonment/homelessness; and/or,
- Negative or no involvement from family/friends.

High Risk:

- Response time is within 24 hours;
- The adult's life or health is threatened with potential harm; and/or,
- The adult appears to lack the capacity to understand or appreciate the risks associated with the situation.
- Examples of high risk include:
 - Physical injury that results in pain, discomfort or injury (e.g., beating, kicking, biting, force feeding);
 - Touching in a sexual manner without consent (e.g., kissing, grabbing, fondling);
 - Social isolation;
 - Unwarranted use of medication;
 - Threats to abandon;
 - Threats to withhold food and money;
 - Use of undue pressure to sign or change legal documents;
 - Withdrawal of essential care (e.g., assistance with incontinent care and meal preparation); and/or,
 - Negative or no involvement from family/friends.

Moderate Risk:

- Response time is within 48 hours;
- The adult is living with risk that threatens their independence, self-worth and quality of life; and/or,
- The adult appears to lack the capacity to understand and appreciate the risks associated with the situation.
- Examples of moderate risk include:
 - Threats of non-life threatening physical injury (e.g., slapping, bruising);
 - Verbal aggression (e.g., yelling, insulting, swearing);
 - Name calling;
 - Unwelcome sexual comments or jokes;
 - Not allowing access to bank accounts;
 - Not allowing religious or cultural practices;
 - Not reporting or taking action on a medical condition that is not immediately life threatening;
 - Inadequate home support services (e.g., no assistance with bathing or meal preparation); and/or,
 - Limited involvement from family/friends.

Low Risk:

- Response time is within 5 clear days;

- The adult is living with some risk factors that might impact their independence, self-worth and quality of life; and/or,
- The adult appears to lack the capacity to understand and appreciate the risks associated with the situation.
- Examples of low risk include:
 - Lack of cleanliness;
 - Inadequate nutrition;
 - Inadequate bathing;
 - Forgetfulness taking medication; and/or,
 - Limited involvement from family/friends.

RISK ASSESSMENT CONTINUUM

Extremely High	High	Moderate	Low
Immediate Response	Respond within 24 hours	Respond within 48 hours	Respond within 5 clear days
<ul style="list-style-type: none"> ○ Physical injury that requires immediate medical attention (e.g., fractures, internal injuries, head trauma, burns) ○ Threats to harm the adult ○ Threats to harm oneself ○ Destruction of personal property ○ Danger to others ○ Deprivation of food, shelter and heat ○ Deprivation of life saving medication ○ Forced sexual acts ○ Physical injury resulting from an honour crime ○ Abandonment/homelessness ○ Negative or no involvement from family/friends ○ Appears to lack capacity 	<ul style="list-style-type: none"> ○ Physical injury that results in pain, discomfort (e.g., beating, kicking, biting, force feeding) ○ Touching in a sexual manner without consent (e.g., kissing, grabbing, fondling) ○ Social isolation ○ Unwarranted use of medication ○ Threats to abandon ○ Threats to withhold food and money ○ Use of undue pressure to sign or change legal documents ○ Withdrawal of essential care (e.g., assistance with incontinent care and meal preparation) ○ Negative or no involvement from family/friends ○ Appears to lack capacity 	<ul style="list-style-type: none"> ○ Threats of non-life threatening physical injury (e.g., bruising, slapping) ○ Verbal aggression(i.e. yelling, insulting, swearing) ○ Name calling ○ Unwelcome sexual comments or jokes ○ Not allowing access to bank accounts ○ Not allowing religious or cultural practices ○ Not reporting or taking action on a medical condition that is not immediately life threatening ○ Inadequate home support services (e.g., no assistance with bathing or meal preparation) ○ Limited involvement from family/friends ○ Appears to lack capacity 	<ul style="list-style-type: none"> ○ Lack of cleanliness ○ Inadequate nutrition ○ Inadequate bathing ○ Forgetfulness taking medication ○ Limited involvement from family/friends ○ Appears to lack capacity

APPENDIX B

ELECTRONIC LINKS

1. **Adult Protection Act**
(<http://www.assembly.nl.ca/legislation/sr/statutes/a04-01.htm>)
2. **Adult Protection Regulations**
(<http://assembly.nl.ca/Legislation/sr/regulations/rc140053.htm>)
3. **Personal Health Information Act**
(<https://www.assembly.nl.ca/legislation/sr/statutes/p07-01.htm>)
4. **Violence Prevention Initiative**
(<http://www.gov.nl.ca/vpi/index.html>)
5. **Mental Health Care and Treatment Act**
(<http://www.assembly.nl.ca/legislation/sr/statutes/m09-1.htm>)
6. **The Public Trustee Act, 2009**
(<http://www.assembly.nl.ca/legislation/sr/statutes/p46-1.htm>)
7. **The Neglected Adults Welfare Act**
(<https://www.canlii.org/en/nl/laws/stat/rsnl-1990-c-n-3/latest/rsnl-1990-c-n-3.html>)
8. **The Advance Health Care Directives Act**
(<https://www.assembly.nl.ca/legislation/sr/statutes/a04-1.htm>)
9. **Mentally Disabled Persons' Estates Act**
(<http://www.assembly.nl.ca/legislation/sr/statutes/m10.htm>)
10. **Access to Information and Protection of Privacy Act**
(<https://www.assembly.nl.ca/legislation/sr/statutes/a01-2.htm>)
11. **Family Violence Protection Act**
(<https://www.assembly.nl.ca/legislation/sr/statutes/f03-1.htm>)

APPENDIX C



ADULT PROTECTION REPORT FORM (RHA)

FILE NUMBER: File Number	DATE FORM RECEIVED: Date
---------------------------------	---------------------------------

DEMOGRAPHIC INFORMATION	
Report Source:	
Name: Name	Email Address: Email Address
Address: Address	Phone #: Phone #
Relationship to Adult: Relationship to Adult	Confidential: Yes <input type="checkbox"/> No <input type="checkbox"/>
Adult who may be in need of protective intervention:	
Name: Name	Date of Birth/Age: Date of Birth/Age
Phone #: Phone #	MCP Number: MCP
Permanent Address: Address	Emergency Contact: Contact
Current Location of Adult: Location	Substitute Decision Maker: Decision Maker
Source of alleged abuse/neglect:	
Name: Name	Phone # Phone #
Relationship to Adult: Relationship to Adult	
Permanent Address: Address	
Comments: Click here to enter text.	
OTHER WITNESSES/SOURCES OF INFORMATION	
Name: Name	Phone #: Phone #
Address: Address	Relationship to Adult: Relationship to Adult
Name: Name	Phone #: Phone #
Address: Address	Relationship to Adult: Relationship to Adult

TYPE(S) OF ISSUE(S)/ALLEGATION(S)		
Neglect <input type="checkbox"/>	Financial <input type="checkbox"/>	Spiritual <input type="checkbox"/>
Self-Neglect <input type="checkbox"/>	Emotional <input type="checkbox"/>	Cultural <input type="checkbox"/>
Physical <input type="checkbox"/>	Psychological <input type="checkbox"/>	Sexual <input type="checkbox"/>
Verbal <input type="checkbox"/>	Other <input type="checkbox"/>	
Description: Click here to enter text. 		

SUMMARY OF REPORT INFORMATION	
Does report meet adult protection criteria?	Yes <input type="checkbox"/> (If yes, proceed with following questions) No <input type="checkbox"/> (If no, provide reason below) Reason: Click here to enter text. Referral to Other Services: Click here to enter text.
Is adult aware of report?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Is assistance with communication needed?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please describe: Click here to enter text.
LEVEL OF RISK	
Extremely High (Respond Immediately)	<input type="checkbox"/>
High (Respond within 24 hours)	<input type="checkbox"/>
Moderate (Respond within 48 hours)	<input type="checkbox"/>
Low (Respond within 5 clear days)	<input type="checkbox"/>

	<i>Name</i>	<i>Position</i>	<i>Phone #</i>	<i>Date</i>
Completed by:	Name	Position	Phone #	Date
Assigned to:	Name	Position	Phone #	Date

Manager:	Name	Position	Phone #	Date
----------	------	----------	---------	------

APPENDIX D ADULT PROTECTION REPORT FORM USER GUIDE

This user guide will provide you with direction for completion of the Adult Protection Report form.

File Number:

- If the report is received by the RNC/RCMP, the file number will reflect their internal filing system.
- Once the report is received by the RHA, an internal file number will be assigned.

Date Report Received:

- Record the date the report is actually received. In rare circumstances, this may be different from the date the report is signed.

Demographic Information:

- Ask the report source to provide you with contact information. The social worker may contact the report source in order to gather additional information, if needed. Ask the report source if they wish for the contact information to remain confidential.
- Record contact information for the adult who may be in need of protective intervention. There may be more than one adult. For example, within a relationship, one partner may be neglecting the other as well as self-neglecting. Complete a separate form for each adult, if more than one adult may be in need of protective intervention.
- Obtain and record the MCP number.
- Record an emergency contact, if known. This could be helpful if an evaluator tries to determine whether there is support from family/friends.
- Record the current location of the adult, if different from the adult's address. For example, the adult may be in hospital.
- Record the name of the substitute decision maker(s), if known.
- Record demographic information about the source of alleged abuse/neglect including the name, address, phone number, and relationship to adult.
- If known, include in the comments section any other relevant information such as knowledge of a criminal investigation or charges pending.
- Record demographic information about any other witnesses or sources of information such as another person living in the adult's home.

Issues/Allegations:

- Identify and provide a detailed description of the indicators of the issues/allegations of neglect, self-neglect or abuse.

- **Neglect** means the failure to provide care, assistance, guidance or attention to an adult who lacks capacity that causes, or is reasonably likely, within a short period of time, to cause to the adult serious physical, psychological or emotional harm or substantial damage to, or substantial loss of assets. It may be intentional or unintentional. This refers to situations in which basic needs such as food, water, shelter, heat, clothing, hygiene, and safety are not being met by others who may be responsible for the adult's care. Neglect may also include situations when proper medical, dental or psychiatric treatment is not being provided.
- **Self-neglect** means the failure of an adult who lacks capacity to take adequate care of themselves where that failure causes, or is reasonably likely, within a short period of time, to cause serious physical or psychological harm or substantial damage to or substantial loss of assets. Self-neglect can include (1) living in grossly unsanitary conditions; (2) suffering from an untreated illness, disease or injury that, within a short period of time is likely to cause physical or psychological harm; (3) suffering from malnutrition to the extent that, without intervention, the adult's physical or mental health is likely to be severely impaired; and, (4) creating a hazardous situation that will likely cause serious physical harm to the adult or others or cause substantial damage to or substantial loss of the adult's assets.
- **Abuse** means the deliberate mistreatment of an adult who lacks the capacity to protect themselves that causes or is reasonably likely, within a short period of time, to cause the adult (1) serious physical, psychological or emotional harm, or (2) substantial damage to or substantial loss of assets. Abuse includes intimidation, humiliation, and sexual assault. The following types of abuse are described through the **Provincial Violence Prevention Initiative** (see Appendix B). In summary:
 - Physical abuse involves using a part of the body or an object to control an adult. An act of violence or rough treatment may cause injury or physical discomfort to the adult. Such behaviour includes any kind of physical assault such as slapping, pushing, pulling, kicking, and punching. It includes injury with any object or weapon, or deliberate, inappropriate exposure to severe weather. It also includes inappropriate and/or forcible confinement or restraint such as tying an adult to a bed or chair.
 - Sexual abuse occurs when the adult takes part in sexual activity to which they are is incapable of consenting. The sexual integrity of the adult is violated. It includes unwanted acts such as kissing, grabbing, fondling, and forced sexual intercourse.
 - Financial abuse is illegally or improperly using an adult's money, property or assets. The adult is incapable of giving consent to allow someone to control the adult's finances. This can cause substantial damage to or substantial loss of the adult's assets. Examples of financial abuse may include withholding or spending another adult's money without legal authorization, or forcing an adult to sign a legal document without his/her full appreciation of the implications of signing.

- Emotional Abuse occurs when something is said or done to make an adult feel worthless or stupid. Some examples are humiliating or making fun of the adult, using silent treatment or calling the adult hurtful names.
- Psychological Abuse occurs when someone uses threats to cause fear or gain control. Some examples include threatening to harm, threatening to abandon or using undue pressure to sign legal documents.
- Verbal Abuse occurs when someone uses language, spoken or written, to cause the adult harm. Some examples include yelling, lying or telling an adult he/she is worthless or nothing but trouble.
- Spiritual Abuse occurs when someone uses an adult's spiritual or religious beliefs to control the adult. Some examples include making fun of the adult's beliefs and practices or preventing the adult from participating in religious services.

Cultural Abuse occurs when an adult is harmed because of his/her cultural, religious or traditional practices. For example, "honour" crimes may be committed resulting in physical harm to or abandonment of the adult.

Summary of Report Information:

- If the report does meet adult protection criteria:
 - Indicate whether the adult is aware the report has been made. This information will be provided by the report source. The adult's knowledge of the report must be verified directly with the adult when initial contact is made during the evaluation. Record any type of communication assistance which may be required and is available within program guidelines. For example a spokesperson, an interpreter or a technical aid may provide support. Use the Risk Assessment Guidelines and Continuum (see Appendix A) to complete an initial assessment of the adult's level of risk. This is a preliminary assessment based on information provided by the report source. It must be assessed further during the evaluation completed by a social worker. Once the report is completed, signed and dated, the case will proceed to evaluation.
- If the report does not meet adult protection criteria:
 - Provide a reason why it does not meet adult protection criteria choosing from one of the following;
 - Adult has capacity;
 - No indicator of abuse/neglect;
 - Adult receiving services under CYCP Act; or
 - Adult is certified or under a Community Treatment Order under MHCTA.
 - Describe any referral made to other services i.e. community support program.
- If a peace officer completes the report form it must be signed, dated and forwarded immediately to the social worker designated to receive the report. It is recommended that the peace officer contact the designated social worker, manager or regional director to confirm receipt and request immediate review.

- If a social worker completes the report form it must be signed, and dated. If the report is to proceed to evaluation, it must indicate to whom it is assigned and the date it is assigned.
- The report form will be signed by a manager.

APPENDIX E

ADULT PROTECTION ACT POLICE FORM

This resource is located on each regional health authority intranet.

APPENDIX F

ADULT PROTECTION EVALUATION FORM

FILE NUMBER: File Number

DEMOGRAPHIC INFORMATION (Adult who may be in need of protective intervention)

Name: Name	Date of Birth/Age: Date of Birth/Age
Phone #: Phone #	MCP Number: MCP
Permanent Address:	Emergency Contact: Contact
Current Location of Adult: Location	Substitute Decision Maker: Decision Maker

REPORT SOURCE INFORMATION

Relationship to Adult: Relationship to Adult

Summary of abuse/neglect allegations: Click here to enter text.

Past involvement with adult protection: Click here to enter text.

ADULT WHO MAY BE IN NEED OF PROTECTIVE INTERVENTION

Does adult consent to evaluation? Yes ☐ No ☐

Is assistance with communication needed? Yes ☐ No ☐

If yes, please describe: [Click here to enter text.](#)

SUMMARY OF INTERVIEW(S)/OBSERVATION(S)

[Click here to enter text.](#)

CURRENT SERVICES (formal and informal)

[Click here to enter text.](#)

RISK EVALUATION

Description of risk factors present at the time of the report and ongoing during the evaluation: [Click here to enter text.](#)

LEVEL OF RISK (upon completion of the evaluation)

Extremely High ☐

High ☐

Moderate ☐

Low

☐

COLLATERAL INFORMATION

Interdisciplinary Input: [Click here to enter text.](#)

Other Sources: [Click here to enter text.](#)

INTERVENTION PLAN

Further action required? Yes ☐ No ☐

Referral to other services/resources? Yes ☐ No ☐

If yes, please describe: [Click here to enter text.](#)

INVESTIGATION WARRANTED (must consult with regional director)

Immediately (same day) ☐

Within 24 hours ☐

Within 48 hours ☐

Within 5 clear days ☐

[Click here to enter text.](#)

Social Worker

[Click here to enter text.](#)

Date

Click here to enter text.

Manager

Click here to enter text.

Date

APPENDIX G

ADULT PROTECTION EVALUATION FORM USER GUIDE

This user guide will provide you with direction for completion of the Adult Protection Evaluation form.

File number:

- Transfer to the evaluation form, the RHA file number assigned when the report was received.

Demographic Information:

- Record contact information (see report form) for the adult who may be in need of protective intervention.
- Add any additional information that may be missing.

Report Source Information:

- If possible, contact the report source, identify the relationship with the adult and record any additional information about the alleged abuse and/or neglect. Assess the relationship between the report source and the adult who may be in need of protective intervention. This will assist you in determining whether the information is valid and reliable. For example, how long has the report source known the adult? What is the relationship between the report source and the adult?
- If relevant, include information about the adult's past involvement with adult protection, such as the type of allegation/issue made and the intervention that occurred.

Adult in Need of Protective Intervention:

- Explain to the adult the reason why a report has been made.
- Try to obtain consent from the adult to proceed with the evaluation. If the adult does not consent, you cannot proceed with the interview or with gathering collateral information unless an investigation is launched.
- Identify what, if any, assistance with communication, is needed to proceed with the evaluation.
- Determine whether the adult understands and appreciates the level of risk associated with his/her current living situation.
- Record a summary of the communication using clear and accurate language according to program guidelines.

- It is preferable to interview the adult. If this is not possible, the adult's surroundings can be observed and information recorded.
- Record information about any services/supports the adult is receiving, formally and/or informally. For example, a family member might provide transportation to medical appointments. A home care agency worker might assist with personal care.

Risk Evaluation

- Using the **Risk Assessment Guidelines and Continuum**, continue to assess the adult's current level of risk.
- Describe the risk factors and indicate the level of risk.
- Consult with your supervisor immediately if the adult is assessed to be at an extremely high or high level of risk.

Collateral Information

- Remember that consent from the adult is required to gather collateral information.
- Record results of consultation with the interdisciplinary team. This may mean consultation with a family physician, geriatrician, home and community care nurse, occupational therapist or other professional.
- Record information provided by supportive sources. For example neighbours and friends might have observed some recent behavioral changes. These changes may be inconsistent with the adult's behavioral history.

Intervention Plan

- Determine whether further action is required.
- If no further action is required; sign and date the form and forward to the manager for review and signature.
- If yes and further action is required you have two choices:
 - 1) Refer the adult to other services/supports/resources.
 - Describe the type, frequency and source of the service.
 - Identify formal service providers such as a community support social worker.
 - 2) Recommend that an investigation proceed if the adult refuses services/ supports/ resources, and appears to lack understanding and appreciation of his/her level of risk.
 - Based on the identified level of risk determine the response time (immediate, within 24 hours, within 48 hours or within five clear days).
 - Response time should be determined in consultation with the regional director (or designate).
- The assigned worker will sign and date the evaluation form.
- The manager will sign and date the evaluation form.

APPENDIX H
ADULT PROTECTION CONSENT FORM
(EVALUATION PHASE)

CLIENT NAME: Client Name

CLIENT ADDRESS: Client Address

PHONE # Phone #

DOB DOB

MCP MCP

INFORMATION TO BE COLLECTED: Any information relevant to an Adult Protection evaluation.

PURPOSE FOR WHICH INFORMATION IS BEING COLLECTED: To complete an evaluation of the report received under the **Adult Protection Act**.

I understand that a report has been received under the **Adult Protection Act** stating that _____ **NAME** _____ has been allegedly abused, neglected and/or self-neglected.

I consent to the collection of information necessary to complete an evaluation of the report received under the **Adult Protection Act**. This consent is valid for a period of twelve months from the date of signature.

I am providing this consent freely. I have been given the opportunity to ask for additional information and clarification. I may revise, limit or withdraw my consent at any time by contacting my service provider.

Click here to enter text.

Click here to enter text.

Client/Substitute Decision Maker
Signature

Social Worker

Click here to enter text.

Click here to enter text.

**Client/Substitute Decision Maker
Name**

Date

APPENDIX I

ADULT PROTECTION ACT INVESTIGATION TEMPLATE

Section 1: Demographic Data

Include name, address, phone number, CRMS ID, MCP, next of kin (if applicable), substitute decision maker (if applicable), date report received, date evaluation completed, date investigation report completed, name and professional designation of investigator.

Section 2: Background

Summarize report and evaluation information.

A summary of the report should clearly identify who is the alleged victim and who is the alleged source of the abuse/neglect. It must provide a description of the allegations.

A summary of the evaluation should describe the assessment of the allegations, stating who was interviewed/observed and any information that was reviewed i.e. financial records. It must state the reason(s) why the evaluation proceeded to investigation.

Section 3: Investigation

Summarize interventions including observations and interviews with the adult, interviews with collateral resources and a review of any relevant materials/reports. Any additional reports completed to support the investigation must be appended i.e. Formal Capacity Assessment

If court orders were used to assist with the completion of the investigation, they must be referenced.

Section 4: Clinical Analysis

Complete a thorough clinical analysis of the facts. This is essential in determining the next step of recommending supports/services to keep the adult safe.

A written clinical judgement statement must be supported by an analysis of the facts. The clinical picture is the investigator's overall impression based on observation, interviews with the adult and any other information sources, as well as a review of any reports or written information.

Section 5: Recommendations

Highlight, in point form, the recommendations needed to minimize risk and support the adult who may need protective intervention. Append to the Investigation Report and the detailed Service Plan for the adult.

Section 6: Signatures

Include name and professional designation of investigator, manager and regional director.

APPENDIX J
COURT FORMS

Information to Obtain a Warrant to Enter

Warrant to Enter

Information to Obtain a Tele-warrant to Enter

Tele-warrant to Enter

Information to Obtain a Warrant to Remove

Warrant to Remove

Information to Obtain a Tele-warrant to Remove

Tele-warrant to Remove

Application for an Order to Investigate

Order to Investigate (Ex Parte)

Originating Application (Provincial)

Originating Application (Supreme)

Affidavit (Provincial)

Affidavit (Supreme)

Affidavit of Service to Adult (Provincial)

Affidavit of Service to Adult (Supreme)

Notice to Adult (Provincial)

Notice to Adult (Supreme)

Notice to Public Trustee.

APPENDIX K
ADULT PROTECTION REVIEW COMMITTEE FORMS

**ADULT PROTECTION
SERVICE PLAN**
**(This is required as part of the originating application to court
requesting a hearing for declaration)**

Date:

Basic Demographic Information:

- Name:
- Address:
- Phone#:
- Age/Date of Birth:
- MCP#:
- Legal Custody:
 - Provincial Director of Adults in Need of Protective Intervention
 - Department of Children, Seniors and Social Development
 - Government of Newfoundland and Labrador
 - BOX 8700
 - St. John's. NL A1B 4J6
 - 709-729-4957 (office)
 - 709-729-7778 (fax)
- Contact Person (Regional Director):
- Next of Kin (if known):
- Date of Declaration of Adult in Need of Protective Intervention (if applicable):
- Date of Capacity Assessment (if applicable):

Medical/Health Information:

- Diagnosis:
- Medications:
- Other Medical Issues:

Communication Aids (if applicable):**Case Details:**

- Abuse/Neglect Allegations:
- Level of Risk:
- Existing Formal and Informal Supports:
- Capacity Assessment Results (see attached capacity assessment report):

Service Needs:

- Formal (professional/supportive services):
- Informal (family/friends):
- Financial (Public Trustee involvement/private):

Recommended Safety Plan:

Date of Court Hearing (to declare an adult in need of protective intervention, if applicable):

Court Orders (attach documents):

Date of Service Plan Review (Minimally every six months):

Completed by:

Reviewed by:

Social Worker (print name)

Manager (print name)

Social Worker (signature)

Manager (signature)

Telephone number

Telephone number

Date:

Date:

Regional Director (signature)

Date:

ADULT PROTECTION SERVICE PLAN REVIEW

Date:

Basic Demographic Information:

- Name:
- Address:
- Phone#:
- Age/Date of Birth:
- MCP#:
- Legal Custody:

Provincial Director of Adults in Need of Protective Intervention
Department of Children, Seniors and Social Development
Government of Newfoundland and Labrador
BOX 8700
St. John's. NL A1B 4J6
709-729-4957 (office)
709-729-7778 (fax)
- Contact Person (Regional Director):
- Next of Kin (if known):
- Date of Declaration of Adult in Need of Protective Intervention (if applicable):
- Date of Capacity Assessment (if applicable):
- Date of Capacity Reassessment (if applicable):

Medical/Health Information Changes:

- Diagnosis:
- Medications:
- Other Medical Issues:

Communication Aids (if applicable):**Case Details:**

- Summary of Case History:

- Summary of Activities of Daily Living:

- Existing Formal and Informal Supports:

- Capacity Assessment Information:
Does the adult's capacity require reassessment?
 - ☐ Yes (provide details explaining why)
 - ☐ No

Service Needs:

- Formal (professional/supportive services):

- Informal (family/friends):

- Financial (Public Trustee involvement/private):

Service Plan Evaluation:

- ☐ Declaration repealed:

- ☐ Declaration remains:

- ☐ Declaration remains with revisions to service plan (provide details):

Completed by:

Reviewed by:

Social Worker (print name)

Manager (print name)

Social Worker (signature)

Manager (signature)

Telephone number

Telephone number

Date

Date

Regional Director (signature)

Date

**ADULT PROTECTION
PROVINCIAL REVIEW COMMITTEE
RECOMMENDATIONS**

Date:

Basic Demographic Information:

- Name
- Address
- Phone#
- Age/Date of Birth
- MCP#
- Legal Custody:
 - Provincial Director of Adults in Need of Protective Intervention
 - Department of Children, Seniors and Social Development
 - Government of Newfoundland and Labrador
 - BOX 8700
 - St. John's, NL A1B 4J6
 - 709-729-4957 (office)
 - 709-729-7778 (fax)
- Contact Person (Regional Director):
- Next of Kin(if known):
- Date of Declaration of Adult in Need of Protective Intervention (if applicable):
- Date of Original Capacity Assessment (if applicable):
- Date of Capacity Reassessment (if applicable):

Review Committee Recommendation:

- ☐ Declaration repealed
- ☐ Declaration remains
- ☐ Declaration remains with revisions to service plan (provide details)

Provincial Director (print name)

Provincial Director (signature)

Date

Cc. Regional Director

APPENDIX L

ADULT PROTECTION DECISION TREE

REPORT

- Some indication of neglect, self-neglect and/or abuse.
- Some lack of understanding or appreciation of level of risk.
- Social worker (regional health authority), peace officer or manager records information on Adult Protection Report Form.

EVALUATION

- Social worker, who accepts the report, completes evaluation within designated time-frame based on level of risk.
- Social worker completes Adult Protection Evaluation Form and submits to Coordinator/Manager/Director.

No further intervention required.

Professional/supportive services are offered and accepted.

An adult protection investigation is initiated Following consultation with the Regional Director. The Provincial Director is informed

INVESTIGATION

Community social worker completes an investigation including a thorough risk assessment; coordination of a capacity assessment and development of a service plan. Consultation continues with the Regional Director. The Provincial Director is informed.

No further intervention required.

Professional/supportive services are offered and accepted.

The Provincial Director makes an application to Court to declare an adult to be in need of protective intervention.

REVIEW

The status of each adult declared in need of protective intervention is reviewed annually, or as required, by a Review Committee consisting of the Provincial Director of Adult Protection the Regional Directors of Adult Protection and the Public Trustee.

Declaration repealed.

Declaration remains.

Declaration remains with revisions

APPENDIX M ADDITIONAL RESOURCES

Adult Protection Formal Capacity Assessment Process

Adult Protection Financial Abuse Guidelines

Adult Protection Long Term Care Guidelines

Adult Protection Acute Care Guidelines

Adult Protection Information Management Standards

These resources are located on each regional health authority intranet.