

Adult Protection Act

Information Session

Adult Protection Act

(effective June 30, 2014)

- The intent of the Act: To protect adult residents of Newfoundland and Labrador (NL) who are at risk of abuse and neglect, and who do not understand or appreciate that risk.
- Is the legislative authority for delivery of services to adults in need of protective intervention.
- Legal obligation to report: **1-855-376-4957** regardless of where in the province the adult resides.

Adult Protection Act

- This Act applies to all adult residents of NL meeting the criteria of an adult in need of protective intervention, regardless of living arrangement.
 - **Adult in Need of Protective Intervention:** lacks capacity and
 - a) is incapable of caring for themselves or refuses, delays, or is unable to make provision for adequate care and attention for themselves; or
 - b) is abused or neglected.
 - **Living arrangements:** include, but are not limited to, a private residence, personal care home, alternate family care home, hospital or long-term care facility.

Adult Protection Act

- The Act is operationalized through the four regional health authorities.
- The Department of Children, Seniors, and Social Development (CSSD) is responsible for administration of the Act.
- There is a provincial director of adult protection and four regional directors of adult protection.
- An adult protection report can be received by a social worker, coordinator, manager, or director (RHAs) or peace officer (RCMP, RNC).

Adult Protection Act

Key features of the Act:

- Inclusion of abuse
- **capacity** versus competency
- Appointment of 4 regional directors
- Three step process: **report**, **evaluate**, and **investigate**
- Emergency intervention process (without warrant)
- Automatic referral to public trustee for financial management of adult declared in need of protective intervention

Adult Protection Act

Capacity:

All adults are presumed to have **full capacity** unless proven otherwise.

An adult is able to understand information and decisions concerning their health care, physical, emotional, psychological, financial, legal, residential, or social needs.

An adult is able to appreciate the reasonable foreseeable consequences of a decision or the lack of a decision.

Adult Protection Act

- **Self-neglect:** 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/loss of assets.

Adult Protection Act

- **Abuse:** 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:
 - a) serious physical, psychological or emotional harm; or,
 - b) substantial damage to/loss of assets, and includes intimidation, humiliation and sexual assault.

Adult Protection Act

- **Neglect:** 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 - serious physical, psychological or emotional harm or substantial damage to/loss of assets.

Adult Protection Act – Service Principles

- Every adult has the right to live their lifestyle of choice.
- The best interests of the adult must be at the center of all interventions.
- Every adult has the right to be involved in decision-making.
- Every adult has the right to the most effective but least intrusive forms of support.

Adult Protection Act – Service Principles

- Intervention should be specifically designed for the individual.
- Family ties and contacts should be preserved when appropriate.
- If an adult desires, they should be encouraged to obtain support/advice from family and friends in decision-making and assistance with communication.

Adult Protection Act

Key Components

Report

Evaluate

Investigate (if necessary)

Assess Risk

Assess Capacity

Understand Court Procedures

Understand Emergency Intervention

Adult Protection Act

REPORTING - 1-855-376-4957

- A report can be received by a regional health authority (RHA) social worker manager/director or a peace officer.
- Every report that is **accepted** is evaluated – a report can be screened out if it does not meet adult protection criteria.
- Refer to police if criminal activity is suspected.
- No action against reporter who acts in good faith.
- Failure to report can result in fine and/or imprisonment.
- Level of risk is assessed initially and response is determined in accordance with the **risk continuum guidelines**.

Adult Protection Act

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 (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) 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

Adult Protection Act

EVALUATING

- Social worker who receives the initial report completes the evaluation as follows:
 - Interview the report source (if possible).
 - Interview and/or observe the adult who may be in need of protective intervention.
 - Assess the level of risk - **risk continuum**.
 - Refer to police if criminal activity is suspected.
 - Gather collateral information, with consent.
- **Decision:**
 - a) have no further involvement;
 - b) provide professional/supportive services; or,
 - c) proceed with investigation.

Adult Protection Act

INVESTIGATING

- Continue to assess risk.
- Refer to police, if criminal activity is suspected.
- Review records and gather information (consent is not required).
- Interview the adult who may be in need of protective intervention.
- Coordinate a capacity assessment (role of social worker, whenever possible).
- **Decision:**
 - a) have no further involvement;
 - b) provide professional/supportive services; or,
 - c) complete a service plan and make an application to court for an order to declare an adult in need of protective intervention.

Adult Protection Act

CAPACITY ASSESSMENT

- Whenever possible the assessment is coordinated by a social worker.
- The best capacity assessment is a thorough one involving the adult (and spokesperson, if necessary) and a team of professionals.
- Each professional completes a capacity assessment through the lens of their discipline.
- Collectively, these assessments contribute to a comprehensive capacity assessment.

Adult Protection Act

COURT PROCEDURES

- Warrant/tele-warrant to enter.
- Order to conduct an investigation.
- Warrant to remove, if necessary.
- Application for a declaration that an adult is in need of protective intervention (provincial director of adult protection).
- Legal counsel for adult who may be in need of protective intervention.
- A declaration that an adult is in need of protective intervention (judge).
- Appeal the judge's order or refusal to make an order (adult).

Adult Protection Act

SERVICE PLAN

- Prepared by social worker following an evaluation and investigation.
- Updated by social worker when court orders have been made.
- Contains 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.
- Completed and reviewed with the adult whenever possible and, if applicable, the adult's spokesperson minimally every six months and annually by formal review committee.

Adult Protection Act

Henry Kielley, MSW, RSW

Provincial Director: Adult Protection

Department of Children, Seniors and Social Development (CSSD)

709-729-4957

henrykielley@gov.nl.ca