



Adult Protection Act

Provincial Policy Manual

September 2023

Table of Contents

Introduction	1
Glossary	5
Section 1: Application & Service Principles	
1.1 Application	8
1.2 Adult in Need of Protective Intervention.....	10
1.3 Presumption and Right to be Heard	15
1.4 Service Principles	18
1.5 Provincial Director.....	21
1.6 Directors	23
Section 2: Adult in Need of Protective Intervention	
2.1 Reporting Required.....	25
2.2 Evaluation.....	28
2.3 Investigation	32
2.4 Warrant: Entry	42
2.5 Tele-warrant	45
2.6 Production of Documents	47
2.7 Temporary Order – Assessment, Residency, and Supervision, Financial and General	50
2.8 Action Following Investigation	61
2.9 Application for Declaration.....	65
2.10 Order of Court.....	70
2.11 Emergency Intervention.....	74
2.12 Emergency Intervention - Financial Affairs	80
2.13 Appeal	83
2.14 Proceedings.....	85

Table of Contents

Section 3: General

3.1 Service Plan and Review Committee.....	88
3.2 Right to Information	93
3.3.1 Documentation	96
3.3.2 Confidentiality	100

Appendices

Appendix A: Risk Assessment Guidelines and Continuum	107
Appendix B: Links	111
Appendix C: Report Form (NLHS).....	112
Appendix D: Report Form User Guide.....	114
Appendix E: Police Report Form	118
Appendix F: Police Report Form User Guide	122
Appendix G: Evaluation Form	126
Appendix H: Evaluation Form User Guide.....	130
Appendix I: Consent Form.....	133
Appendix J: Investigation Form	134
Appendix K: Investigation Form User Guide.....	137
Appendix L: Court Forms	139
Appendix M: Request for Information Template	140
Appendix N: Service Plan Form	142
Appendix O: Service Plan Review Form	147
Appendix P: Provincial Review Committee Recommendation Form.....	151
Appendix Q: Request for Access to Adult Protection Information	152
Appendix R: Non-Disclosure of Information Review Application	154
Appendix S: Adult Protection Decision Tree.....	156
Appendix T: Additional Resources	157
Appendix U: Abbreviations Used in Adult Protection.....	158

Introduction

The intention of the **Adult Protection Act, 2021** (referred to as the Act) is to identify and protect adult residents of Newfoundland and Labrador who do not understand or appreciate the risk of abuse and/or neglect, including self-neglect, as defined under the Act.

Under the Act, the key criteria for engagement is whether an adult is an adult in need of protective intervention. This means an adult who:

- lacks capacity with respect to one or more of their health care, physical, emotional, psychological, financial, legal, residential or social needs; **and**
- with respect to the area or areas in which they lack capacity, is either incapable of caring for themselves or refuses, delays or is unable to make provision for adequate care and attention for themselves; or is abused or neglected (section 5).

Every adult has the capacity to make decisions unless the contrary is proven. An adult is entitled to live in the manner the adult wishes as long as that adult has the capacity to make decisions respecting the adult's lifestyle. An adult has the right to make a decision even if it may be considered by some as unwise or socially unacceptable. **The quality of a decision is not indicative of the ability to make that decision.** This premise is reflected in the service principles of the Act that inform every decision made under the Act.

An adult may be capable of making a decision in one area of life but not another (e.g., health, finances). This can be significant in how work under the Act is approached. Where an adult's capacity is questioned in one area, they are presumed to be capable in other areas unless proven otherwise.

The work of the Act is tied to the initial report or allegation and what area(s) of decision-making is in question and may change as new information is learned, but is always linked to respecting the adult's decision-making, the presumption they have capacity, and seeking to intervene only where there is evidence of a lack of capacity.

If an adult's capacity is questioned when an allegation of abuse and/or neglect occurs, a formal capacity assessment may be completed. This usually occurs during an adult protection investigation but it may be initiated during the evaluation phase. A formal interdisciplinary assessment process is used to determine an adult's capacity to understand and appreciate the risk of abuse, neglect and/or self-neglect. This assessment process is completed in accordance to policy 2.3 (Investigation) and the Formal Interdisciplinary Capacity Assessment Guidelines (see appendix T). This process will look at the relevant areas of decision-making where a lack of capacity may exist, based on information received about the areas of risk to the adult.

The service principles of the Act are operationalized to the greatest extent possible when considering the adult's ability to make decisions. These principles are set out in section 8 of the Act and include:

- An adult is entitled to live in the manner the adult wishes as long as that adult has the capacity to make decisions respecting the adult's lifestyle.
- The best interest of the adult must always be the primary consideration.
- The adult has the right to be heard and to participate to the greatest extent possible in decision-making about themselves.
- 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 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.
- When appropriate, the delivery of services should provide for the preservation of an adult's cultural and community connections, as well as family ties and contacts.
- 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 may also include legal counsel.

This manual establishes policies 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.

This manual includes step-by-step procedures about how to assess an adult's capacity, and to determine whether abuse, neglect and/or self-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 an investigation of adults who may be in need of protective intervention, including when formal capacity assessments will be used, and the development of service plans to set out the necessary services to assist an adult.

The manual provides guidance regarding when and how to engage the courts during the investigation process, to ensure the safety of the adult as well as assist in completing the investigation.

The manual outlines the process of presenting the investigation findings to the provincial director who will determine if an application should be made to court to declare an adult in need of protective intervention, and have someone appointed as a decision maker for the adult as needed, or other appropriate services provided. Policy also provides guidance for ongoing engagement with an adult who has been declared by a judge to be

in need of protective intervention, including the need to monitor for material changes in their circumstances, possible returns to court and regular reviews of the service plan.

Legal proceedings under the Act are heard in the Provincial Court or the Supreme Court of Newfoundland and Labrador. Proceedings under the Act are considered to be civil actions. If at any time 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 to the police must be considered. If there is uncertainty about whether criminal activity has occurred, consultation with police will occur.

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 statutory 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, the right to information, 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, evaluating, and investigating an adult who may be in need of protective intervention.

For each policy, the statutory provision provides the actual language from the Act. This is followed by the policy which provides the expectations around what is necessary to meet provincial requirements about how the particular legislative provisions are operationalized. When appropriate, this is followed by procedures which outline specific processes that are needed to meet the legislative requirements of the Act.

The Department of Children, Seniors and Social Development is responsible for the content of this manual. Each regional director shall be responsible for ensuring that all applicable staff and management receive a copy of this manual, as well as any updates

or addendums to this manual. Holders of the manual are responsible for keeping their manual up to date based on revisions and additions received.

Glossary

Abuse – section 2(a) – The deliberate mistreatment of an adult 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 real or personal property, including financial 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 within the meaning of the **Children, Youth and Families Act**. See policy 1.1 for further details.

Adult in Need of Protective Intervention – section 5 – An adult who lacks capacity with respect to one or more of their health care, physical, emotional, psychological, financial, legal, residential or social needs; and with respect to the area or areas in which they lack capacity, is (1) incapable of caring for them self, or 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. See policy 1.4 for further details.

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 appreciate the reasonable foreseeable consequences of a decision or the lack of a decision.

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

Counting of Days – When counting days under the Act (**for non-court procedures**), the first day is excluded from counting and the last day is included. Weekends and holidays are included in the counting of days. Only when the due date lands on a weekend or holiday, does the deadline for completion move to the next day.

Court – section 2(f) – The Provincial Court or the Supreme Court of Newfoundland and Labrador (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 often

referred to as regional directors. See policy 1.6 for further details on the role and duties of the regional director.

Health Care Professional – section 2(i) – A health care professional designated in the regulations that can perform a medical assessment under section 20(2)(a). Includes persons licensed or registered under an Act of the province to provide health care.

Investigator – section 15 – A person who acts as an investigator shall be a social worker. See policy 2.3 for further details on the role and responsibilities of investigators under the Act.

Judge – section 2(j) – A Provincial Court judge or a judge of the Supreme Court of Newfoundland and Labrador (unless otherwise specified).

Minister – section 2(k) – The minister appointed under the **Executive Council Act** to administer this Act. Currently this is the Minister of Children, Seniors and Social Development

Neglect – section 2(l) – The failure to provide care, assistance, guidance or attention to an adult 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 real or personal property, including financial assets. See policy 1.2 for further details.

Next of Kin – section 2(m) – In order of priority, (1) the spouse or co-habiting partner, (2) children, (3) parent(s) or guardian or (4) siblings of the adult in need of (or who may be in need of) protective intervention. This definition must be used when filing related notices under policies 2.7 and/or 2.9 and/or when considering the disclosure of information to next of kin under policy 3.3.2.

Peace Officer – section 2(n) – A member of the Royal Newfoundland Constabulary (RNC) or the Royal Canadian Mounted Police (RCMP), including a person approved by the Attorney General to perform the duties of a peace officer. Consultation should occur before persons other than the RNC or RCMP are treated as peace officers.

Provincial Director – section 2(o) – The Provincial Director of Adults in Need of Protective Intervention as appointed under section 9 of the Act. See policy 1.5 for further details on the role and duties of the provincial director.

Provincial Office – Within the Department of Children, Seniors and Social Development, the office includes the Provincial Director of Adults in Need of Protective Intervention and associated staff.

Public Body – section 2(p) / Section 2(x) of the Access to Information and Protection of Privacy Act, 2015 – includes (1) a department created under the **Executive Council Act**, or a branch of the executive government of the province, (2) a corporation, the ownership of which, or a majority of the shares of which is vested in the Crown, (3) a corporation, commission or body, the majority of the members of which, or

the majority of members of the board of directors of which are appointed by an Act, the Lieutenant-Governor in Council or a minister, (4) a local public body, (5) the House of Assembly and statutory offices, as defined in the **House of Assembly Accountability, Integrity and Administration Act**, and (6) a corporation or other entity owned by or created by or for a local government body or group of local government bodies, which has as its primary purpose the management of a local government asset or the discharge of a local government responsibility.

Reprisal – section 2(q) – 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(r) – The failure of an adult 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/or (4) creating a hazardous situation that will likely cause serious physical or psychological harm to the adult or others or cause substantial damage to or substantial loss of the adult's real or personal property, including financial assets.

Social Worker – section 2(s) – A person registered under the **Social Workers Act**, and employed by a health authority or the province. Other persons who may be registered social workers, but employed elsewhere are not social workers as referenced in this Act or manual.

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: December 15, 2022	Revised:

Statutory Provision

4. (1) This Act applies to every adult, including an adult 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; and
 - (e) an assisted living facility.
- (2) Notwithstanding subsection (1), this Act does not apply to an adult 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 Newfoundland and Labrador to whom the **Children, Youth and Families Act** does not apply. This means individuals 18 years or older, regardless of living arrangement, even if they are resident in a health care facility, personal care home or long-term care facility. However, where an adult has been certified or under a community treatment order of the **Mental Health Care and Treatment Act**, the **Adult Protection Act** does not apply.

There may be situations where there are adult protection concerns related to individuals aging out of the child protection system. Communication can occur between professionals to evaluate the need for adult protection involvement before the individual becomes an adult.

An adult who is being treated under the **Mental Health Care and Treatment Act** may still reveal indicators of abuse, neglect and/or self-neglect during hospitalization or treatment. The adult may show signs of lacking capacity. Communication should 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. In situations where there is uncertainty as to whether the **Mental Health Care and Treatment Act** or the **Adult Protection Act** applies to a case,

communication and collaboration across program areas should occur to determine appropriate case planning. Features of a mental illness may impact capacity, however, any acute presentations of the illness must be stabilized to the extent possible before a formal adult protection capacity assessment can begin. Following the period of certification, the duty to report under the **Adult Protection Act** would apply and any concerns should be reported for consideration.

Regardless of the adult's place of residence, the 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: December 15, 2022	Revised: September 27, 2023

Statutory Provision

5. An adult in need of protective intervention is an adult who
- (a) lacks capacity with respect to one or more of their health care, physical, emotional, psychological, financial, legal, residential or social needs; and
 - (b) with respect to the area in which the adult lacks capacity under paragraph (a), is
 - (i) incapable of caring for themselves, or who refuses, delays or is unable to make provision for adequate care and attention for themselves, or
 - (ii) abused or neglected.

Policy

In determining if an adult is in need of protective intervention, the adult **must lack capacity** in respect to one or more of their health care, physical, emotional, psychological, financial, legal, residential or social needs 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. **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 both understand how the implementation of services will affect them and have the ability to appreciate whether or not services will enhance functioning and mitigate risk of abuse and neglect. Additional information on the concept of capacity can be found in policy 1.3 (Presumption and Right to be Heard) and the Formal Interdisciplinary Capacity Assessment Guidelines (see appendix T).

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 information and appreciate consequences. This can include, but is not limited to, including the adult's spokesperson in the capacity assessment process and/or providing communication supports when necessary. 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.

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. Undertaking a formal capacity assessment is an intrusive process that must be carefully considered and coordinated by the investigator in accordance with policy 2.3 (Investigation) and the Formal Interdisciplinary Capacity Assessment Guidelines (see appendix T). Reasonable attempts must be made to mitigate the risk before proceeding with a formal assessment.

In addition to lacking capacity, in order for an adult to be in need of protective intervention, they must also be abused, neglected or self-neglecting within the meaning of the Act.

Based on the limited information available from the report, a preliminary assessment of the seriousness of the situation and level of risk involved will be conducted to determine how quickly the response to a report will occur. 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 days.

Self-neglect is the term used to describe whether the adult is incapable of adequately 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 clinical judgment of a professional an incident is likely to occur. The professional must evaluate the level of risk and determine whether harm is occurring or 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.

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 substantial

loss of the adult's real or personal property, including financial assets. An evaluation of the adult's environment will identify risks so a response can be prepared.

Whatever form self-neglect takes, it must be actively causing harm, or be reasonably likely to cause the adult harm within a short period of time.

(2) Abuse and neglect

Under the Act, abuse is defined as the deliberate mistreatment of an adult 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 the adult's real or personal property, including financial assets

and includes intimidation, humiliation and sexual assault.

Overview of Types of Abuse

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 real or personal property, including financial 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. **Financial Abuse Guidelines** (see appendix T) have been developed to guide the evaluation and investigation of financial abuse. Examples of financial abuse can include, but are not limited to:

- withholding or spending another adult's money without legal authorization;
- forcing an adult to sign a legal document without their full understanding and appreciation of the implications;
- not allowing access to bank accounts or other income; or,
- theft.

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;
- forced sexual intercourse; or,
- an act that uses the adult for the purpose of another person's sexual gratification.

Neglect is a term used in the Act that describes the failure to meet the basic needs of an adult. In section 2(l) of the Act, neglect means the failure to provide care, assistance, guidance or attention to an adult 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 real or personal property, including financial 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.

Evaluating Harm in the Context of the Act

When evaluating allegations of abuse, neglect or self-neglect, the professional must use judgement to determine if the adult has been harmed or is reasonably likely to be harmed within a short period of time. Evaluation of an adult's level of risk is an ongoing process that occurs throughout the report, evaluation and investigation stages. All forms of abuse, neglect and self-neglect can lead to substantial harm when not appropriately addressed and can also be indicative of other more serious forms of abuse, neglect and self-neglect. 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. Response timeframes and the intrusiveness of interventions 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, but are not limited to, 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: December 15, 2022	Revised: September 27, 2023

Statutory Provisions

6. (1) An adult is presumed to have the capacity to make decisions unless a court determines, in an application under this Act, that the adult lacks the capacity to make decisions under subsection (2).
- (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 area, the adult shall not be presumed to lack the capacity for decision-making in those other areas or all of them unless the contrary is determined by a court in an application under this Act.
- (4) An adult's method of communicating with others is not grounds for deciding that the adult lacks capacity to make decisions.
- (5) For the purpose of this section, capacity for decision-making may be assessed by those persons and in the manner prescribed in the regulations.
7. (1) 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
- (a) to be heard in the manner most appropriate to the adult's circumstances, either on the adult's own behalf or through a spokesperson; and,
 - (b) to retain and instruct counsel.
- (2) In a proceeding in which an adult's capacity to make decisions is at issue, the adult shall be considered to have the capacity to instruct counsel.

Policy

An adult's capacity must be considered throughout the reporting, evaluating and investigating stages of the Act.

An adult shall be presumed capable unless and until a court has made a finding that they lack capacity. This can include a determination after a declaration application, and may include findings made in temporary applications. Consultation with the appropriate legal counsel should occur to ensure that a finding made by a court is sufficient to determine an adult lacks capacity.

Under the Act, an adult shall be considered to lack capacity to make a decision where the adult is unable to understand information relevant to the decision where that decision concerns their health care, physical, emotional, psychological, financial, legal, residential or social needs; or is unable to appreciate the reasonably foreseeable consequences of a decision or the lack of a decision.

To be capable in adult protection a person must have an ability to both understand **and** appreciate the risk.

The quality of a decision is not indicative of the ability to make that decision. 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).

While diagnosis or disability do not determine capacity, features of an adult's diagnosis or disability may impact capacity. Temporary factors can affect an adult's capacity and every effort must be made to identify and resolve temporary and/or reversible conditions before commencement of a formal capacity assessment. These include physical and/or mental health problems.

A formal 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. When an adult is determined to lack the capacity for decision-making in one particular area, it must be presumed that the adult remains capable in other areas unless it is proven otherwise by a court. For assessment purposes, if more than one domain and/or decision is required to be assessed due to risk, each domain or decision must be considered individually.

The inability of an adult to communicate in traditional ways must not influence or determine that 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, but is not limited to, translation or interpretation; use of plain language; use of a spokesperson; and/or use of a technical aid or device such as a pocket talker to enhance hearing.

Capacity is a fluid concept. It may be necessary to re-evaluate an adult's capacity due to significant change(s). For example, an adult may have experienced an acute illness that affected their cognition; however with appropriate treatment the issue was resolved. In this instance, a re-evaluation of the adult's capacity would be warranted.

A formal capacity assessment is interdisciplinary and is coordinated by an investigating social worker whenever required, and in a manner prescribed in the regulations. Formal capacity assessments will not be required in all investigations. Factors to consider when determining whether a formal capacity assessment is required are included in policy 2.3 (Investigation).

The formal capacity assessment 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 formal capacity assessment process is referenced in appendix T (Adult Protection Formal Interdisciplinary Capacity Assessment Guidelines).

Right to be Heard and Legal Counsel

An adult has the right to be heard either on their own behalf or through a spokesperson. The adult's known wishes (written or oral) when they were capable must be considered. If the adult has a designated substitute decision-maker, that person will be contacted with the adult's consent in evaluation, or with or without the adult's consent in investigation, to better understand the adult's wishes. If the substitute decision-maker is the alleged source of the abuse or neglect, careful consideration should be given to the appropriateness of making contact with that individual.

An adult also has the right to legal representation in a matter or proceeding under the Act, and an adult is presumed to have the capacity to instruct legal counsel even if their capacity to make decisions is at issue in a proceeding. It is the responsibility of the social worker to involve and inform the adult to the greatest extent possible throughout the adult protection process in accordance with policy 1.4 (Service Principles), 2.2 (Evaluation), and 2.3 (Investigation). This includes informing the adult of their right to legal counsel throughout adult protection processes and providing appropriate assistance to the adult in applying for and obtaining legal counsel. This assistance may include, but is not limited to, providing contact information for legal aid offices, the law society lawyer referral program, assisting with an application for legal services and/or locating contact information for services, if required by the adult.

Adult Protection Act Provincial Policy Manual	
Section 1: Application and Service Principles	Subsection 1.4: Service Principles
Effective Date: December 15, 2022	Revised:

Statutory Provision

8. This Act shall be interpreted and administered in accordance with the following principles:
- (a) an adult is entitled to live in the manner the adult wishes as long as that adult has the capacity to make decisions respecting the adult's lifestyle;
 - (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 that adult;
 - (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 on a regular basis and as the adult's needs and conditions change, and should be revised as appropriate to address those needs and conditions;
 - (f) the delivery of services under this Act should, where appropriate, provide for the preservation of the adult's cultural and community connections;
 - (g) the delivery of services under this Act should, where appropriate, provide for the preservation of family ties and contacts; and
 - (h) 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. These principles are central to the adult protection process and guide the interpretation and administration of the Act.

An adult's autonomy is valued and respected and must be upheld to the greatest extent possible throughout the adult protection process. An adult is entitled to live in the manner they wish as long as that adult has the capacity to understand and appreciate their decisions. While supports and services may be offered to all adults engaged under the Act, an adult who understands and appreciates the risk and is not an adult in need of protective intervention may choose not to participate in supportive interventions. 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 who is or may be an adult in need of protective intervention 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 consider and attempt to determine the adult's capacity to understand or appreciate the risk (see appendix A for Risk Assessment Guidelines and Continuum).

All interventions and decisions concerning the adult should reflect the adult's best interests. A definition of best interests is included in the glossary of this manual. Determining whether a service, program or intervention is in the adult's best interest involves a thorough professional evaluation of:

- the adult's past and current living situation, including an evaluation of the adult's safety, health and well-being;
- the adult's physical, emotional and psychological needs;
- 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 to the greatest extent possible in decision-making processes. This can include, but is not limited to, supporting the adult to make informed choices throughout the adult protection process and incorporating the adult's preferences into decision-making to the greatest extent possible. Where appropriate, family and/or spokespersons should be involved to support the adult's involvement. The adult is also entitled to have legal counsel to support them through the adult protection process.

If an adult is believed to lack capacity clinically, or a formal legal finding has been made that they lack capacity, the adult should still be supported to participate in decision-making processes to the greatest extent possible. This can include, but is not limited to, involving the adult in the development of their service plan or consulting with the adult regarding their preferences throughout the adult protection process.

When intervention is needed, the service principles also highlight the importance of providing the least intrusive and restrictive form of support or protection. Under the Act, a person's autonomy should be limited only to the extent necessary to mitigate the risk. All reasonable options to mitigate risk with as little disruption to the person as possible must be considered and pursued where appropriate. Any restriction of a person's decision-making rights is a significant intervention and should be considered as a last resort when all other options have been attempted. In doing this, consideration must also be given to the availability of program and service resources. Where a less intrusive service would

be preferable, but is not readily available, that consideration should be documented and alternatives explored that reflect what resources are available.

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 communicates in a particular 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.

The delivery of services under the Act should, where appropriate, provide for the preservation of the adult's cultural and community connections. For example, where appropriate, a service plan prepared for an adult declared to be in need of protective intervention may include visitations and/or engagement opportunities that facilitate the adult's connection with their culture, heritage, traditions, community, language and/or spirituality. Attempts should be made to provide services including assessments in the adult's own language directly or supported by translators.

Delivery of services to an adult who is in need of protective intervention must consider the preservation of family ties and contacts when appropriate. Family can be a significant source of support and should be consulted and involved in the implementation of services where appropriate. It is often preferable and least intrusive to work with families and the adult to determine if suitable arrangements can be found rather than pursue a court order when intervening under the Act. It is also 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.

Anyone engaged under the Act shall encourage the adult to seek the support, assistance and advice from family and friends who may help the adult understand choices as well as make and communicate decisions. The ability of the adult to seek legal advice and use a support or spokesperson should also be actively undertaken as a regular part of engaging with the adult.

Adult Protection Act Provincial Policy Manual	
Section 1: Application and Service Principles	Subsection 1.5: Provincial Director
Effective Date: December 15, 2022	Revised:

Statutory Provision

9. (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) perform those functions and duties imposed by a court in an order made under the authority of this Act.
- (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 the provincial director's discretion, exercise that power or perform that duty.
- (4) The provincial director may delegate, in writing, the provincial director's powers under this Act to another person in the department.
- (5) A person purporting to exercise the power of the provincial director by virtue of the delegation under subsection (4) shall produce evidence of that person's authority to exercise that power when required to do so.

Policy

The provincial director is responsible for developing, implementing, monitoring, and evaluating province-wide policies, programs, standards and regulations related to the Act. This responsibility is exercised through statutory reviews, consultation with stakeholders, monitoring efforts undertaken in the regions under the Act, as well as establishing and revising the provincial policy manual, issuing guidance in regard to provincial policy, developing forms, and other communication from the provincial director to directors and social workers in regard to practice under this Act.

The provincial director also has specific legislated obligations and duties under the Act including:

- receiving reports of an adult who may be in need of protective intervention;
- receiving investigation reports;
- determining whether an application for a declaration order should be made, and what type of order is being requested;
- reviewing service plans and documents in relation to an application for declaration; and,
- consideration of engagement of the public trustee for emergency financial intervention under section 27 (see policy 2.12 – Emergency Intervention – Financial Affairs).

Where a court order issued under section 25 directs to supervise or make one or more decisions on behalf of an adult declared in need of protective intervention, the provincial director also has authority to determine how a director will undertake its powers and functions under the Act, and the director is obliged to undertake the function in compliance with the provincial director's authority.

In general practice, the provincial director will work with the director and their staff to assess recommendations provided by regional staff through consultation, service plans, investigation reports and formal capacity assessments. However, the provincial director's decision to proceed with any particular action or function assigned under the Act is within the provincial director's sole decision-making authority. This includes any decision by the provincial director to require a director to perform a particular duty or function in the manner set by the provincial director.

The provincial director can also perform any of the duties and exercise any power granted to a director under the Act. While it would be unusual that the provincial director would do so, this would include that a provincial director could seek a warrant, conduct an evaluation, elements of an investigation, including seeking a temporary order, among other matters.

Delegation and Assignment of Provincial Director Functions

The provincial director may delegate their authority to another person in the Department of Children, Seniors and Social Development. This delegation must be made in writing and will usually be communicated to the directors. Any person purporting to rely on the delegated authority shall provide the written authorization when being asked to do so.

Adult Protection Act Provincial Policy Manual	
Section 1: Application and Service Principles	Subsection 1.6: Directors
Effective Date: December 15, 2022	Revised:

Statutory Provision

10. (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 social worker 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, where requested by the provincial director, make a report to the provincial director respecting the exercise of that director's duties under this Act, and the report shall include the information that the provincial director may require.

Policy

A director (also referred to as 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; applying for a temporary order; completing an emergency intervention; or performing functions and duties ordered by a court under section 25 of the Act. A director may also be required to make decisions regarding the disclosure of information in accordance to policy 3.3.2 (Confidentiality). Exercise of the director's duties regarding powers and duties under the Act shall comply with the provisions of the Act, regulations, and with the provincial policy manual and any directives issued by the provincial director regarding the policies.

Many of these duties will be conducted primarily by the director independent from the provincial office. However, in appropriate circumstances, the provincial director may choose to operate and exercise some of the duties assigned to a director under the Act. These may include evaluating reports, investigation, applying for temporary orders, and/or, emergency interventions. These functions will only be undertaken by the provincial director in exceptional circumstances, and in those situations, the director will be notified that the provincial director is exercising their authority under section 9(3) to undertake the power/function in lieu of the director.

The director will generally be responsible for how any matters within its power and authority are performed, with the provincial director reviewing investigation reports and determining whether to proceed with a declaration order.

However, in the appropriate circumstances, the provincial director may, in accordance with section 9(2), tell the director how a particular power or function is to be effected, and the director shall comply. When a provincial director uses this authority, the director must ensure that the provincial director's requirements are fulfilled.

A regional director must appoint a designate if they are absent or unable to perform the duties of a director under this Act and that designate must be a social worker. To support the regional director or designate, there is always a social worker on call 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 criminal activity may be suspected and it may be appropriate for a regional director to report the matter to the police in accordance to policy 3.3.2 (Confidentiality).

In extreme or urgent circumstances, a regional director may remove an adult to a place of safety without a warrant under section 26(3) and in accordance to policy 2.11 (Emergency Intervention). Police will be requested to assist with an emergency intervention. An application to the court for a temporary order must be made by the regional director no later than two days after the adult has been removed.

During the course of an investigation and/or prior to a declaration order, a regional director may also be required to make an application to the court for an order to produce records or a temporary order (sections 19 – 22 of the Act). This order may require the release of information; a medical assessment; a capacity assessment; entrance into premises; a financial audit; and/or the removal of an adult from a place of residence. This order may also authorize that an adult be placed under the supervision of a director; an adult reside in a place identified by the director; a director make decisions on behalf of the adult with respect to the area(s) in which they lack capacity, or that the public trustee or another appropriate person become the guardian of the adult's real or personal property, including financial assets.

Under section 24 of the Act, it is the responsibility of the provincial director or a designate to apply to the court for an order to have the adult declared in need of protective intervention.

A regional director or designate must prepare a service plan for every adult subject to a declaration application and/or a declaration order.

If requested by the provincial director, a regional director must provide information to the provincial director regarding their duties under this Act. This can include, but is not limited to, reports; evaluations; capacity assessments; data and/or any other information or required by the provincial director.

Adult Protection Act Provincial Policy Manual	
Section 1: Application and Service Principles	Subsection 2.1: Reporting Required
Effective Date: December 15, 2022	Revised: September 27, 2023

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 possible abuse, neglect or self-neglect where an adult may lack capacity and may be in need of protective intervention. This means the individual making the report has a reasonable belief that the adult may not understand or appreciate the risk of harm they may be in and may be abused, neglected or self-neglecting.

Any person can make a report and can do so anonymously and in confidence. The obligation to report applies to all individuals including those where information may have been obtained from a relationship considered privileged or confidential such as a counsellor, banker, physician and/or a lawyer. It is important that the report source provide all of the information they have as part of their report.

A report can be made to a social worker, director, the provincial director or a peace officer. A peace officer has an obligation to inform a social worker, director or the provincial

director about the report as soon possible after it is received. The report will then be screened to determine if it meets the criteria for further action under the Act. Screening will occur by staff at the provincial health authority.

All reports will be kept confidential unless the report source consents, a judge orders the release of the information, or other legislation requires the release of the information.

Failure to report that an adult is in need of protective intervention constitutes an offence under section 37 of the 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 person who makes a report shall not be the subject of harassment or be interfered with for fulfilling their legal obligation to report. No action can be taken against a person for making a report under this section provided they have done so in good faith and not maliciously or without reasonable cause.

If criminal activity is suspected, a social worker must review policy 3.3.2 (Confidentiality), and following consultation with a coordinator/manager, the regional director shall determine whether a referral to police is appropriate.

Procedure

- Reports can be made in any manner, including by calling 1-855-376-4957, the toll free number established to receive reports. The number will direct the report to staff in the provincial health authority where the subject of the report resides.
- In the event a call is directed to the incorrect zone, the report must be redirected to the appropriate zone as soon as possible. If this occurs after hours, the on call social worker must redirect the report to the correct area on call worker.
- Information (such as calls, emails, letters) alleging abuse, neglect and/or self-neglect may be received by a variety of sources such as provincial 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, they must fulfill the duty to report, but should also be encouraged to have the original source contact the appropriate person directly to ensure the most accurate and complete information can be received. Information that triggers the duty to report **must** be reported to a provincial health authority social worker, regional director, the provincial director, or if necessary, a peace officer.
- If a report is received or initiated by a peace officer, the information must be recorded on the Adult Protection Act Police Report form (see appendix E) with guidance from the Police Report User Guide (see appendix F). The report must be forwarded **as soon as possible** to a social worker, regional director or the provincial director.
- If a report is made directly to a social worker, regional director or the provincial director, the information must be recorded on the Adult Protection Report form (see appendix C) with guidance from the User Guide (see appendix D).

- Once received in the provincial health authority, a decision must be made about whether the report meets adult protection criteria. If it does not, it will be screened out with documentation on the report form 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 proceed as soon as possible in accordance to the response time determined as outlined in the risk continuum (see appendix A).
- Response time will be dependent upon the level of risk as follows:
 - extremely high requires an immediate response;
 - high requires a response within 24 hours;
 - moderate requires a response in 48 hours; or,
 - low requires a response within five days.
- The social worker will consult with a coordinator/ manager prior to proceeding with an evaluation.
- The social worker may also contact the report source, if necessary to:
 - clarify information contained in the report; and/or,
 - evaluate the relationship between the report source and the adult who may be in need of protective intervention.
- Reports are kept confidential and may be provided anonymously. 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.

Where a person alleges a report has been made maliciously, this must be reported to a director. The director must consider the report, review the allegation and prepare a summary of their conclusions and information that supports those conclusions. If following the review a director has a reasonable belief that a report has been made maliciously, the director must consult with the provincial director to determine next steps.

Adult Protection Act Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.2: Evaluation
Effective Date: December 15, 2022	Revised: September 27, 2023

Statutory Provision

13. (1) A director shall, with the consent of the adult who is or may be in need of protective intervention, complete an evaluation where the director
- (a) receives a report under section 12;
 - (b) is referred a report from a person who received it under section 12; or
 - (c) reasonably believes that a person may be an adult in need of protective intervention.
- (2) An evaluation shall be
- (a) commenced not later than 5 days after receiving a report under section 12; and
 - (b) completed not later than 10 days after receiving a report under section 12.
- (3) Notwithstanding subsection (1), an evaluation shall be considered completed where the adult who is or may be an adult in need of protective intervention does not provide, or is unable to provide, consent or withdraws consent.

Policy

The regional director of adult protection or designate must commence an evaluation as soon as possible but no later than five days after a report is received and accepted to determine whether an adult protection investigation is required. The evaluation must be completed in accordance with the level of risk identified on the Adult Protection Report form (see appendix C). The evaluation shall be completed as soon as possible but no later than ten days after a report is received and accepted.

A social worker must obtain the consent of the adult prior to proceeding with an evaluation (see appendix I). The adult must be engaged in and consent to any actions undertaken by a social worker in the evaluation process. **Consent for the evaluation can only be provided by the adult.** A substitute decision-maker designated under the **Advance Health Care Directives Act** (health care decisions) or a power of attorney designated under the **Enduring Powers of Attorney Act** (financial matters) do not have the authority to consent to an adult protection evaluation.

When consent for evaluation is obtained from the adult, a social worker will begin the assessment process. This assessment will include an interview or observation of the adult who may be in need of protective intervention, an evaluation of the level of risk, and information gathered from collateral sources. It is important that the adult who may be in need of protective intervention is informed and consulted whenever possible.

If the consent of the adult is not obtained and the adult appears unable to understand or appreciate the level of risk, the social worker must consult with their coordinator/manager immediately. The regional director will determine next steps in the intervention with the adult, including whether the matter can continue as an evaluation.

If the risk of abuse and/or neglect has not been mitigated at the end of ten days and concerns remain about the adult's capacity to understand and appreciate the risk, the case will proceed to an adult protection investigation in consultation with the regional director. An investigation shall commence as soon as possible and in accordance with the level of risk identified upon completion of the evaluation.

Procedure

A social worker must make every reasonable effort to visit the adult to initiate the evaluation process; however, if this is not possible, the social worker must find ways to engage with the adult to complete the evaluation.

The social worker completes an evaluation using the Adult Protection Evaluation form (see appendix G) and the User Guide (see appendix H). Prior to engaging the adult, the social worker will review the adult protection report information and identify whether there has been any past involvement with adult protection. 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 policy 3.3.2 (Confidentiality) if criminal activity is suspected, and following consultation with a coordinator/manager, the regional director shall determine whether a referral to police is appropriate;
- interview the report source to clarify and expand on information initially received; and,
- evaluate the relationship between the report source and the adult who may be in need of protective intervention.

Interview and/or Observe the Adult Who May Be in Need of Protective Intervention (with consent)

The social worker must:

- explain the purpose of the interview and complete the Adult Protection Consent form (see appendix I) with the adult;

- inform the adult of their right to legal counsel and right to refuse participation in the evaluation process;
- 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;
- evaluate the adult's understanding and appreciation of the alleged abuse, neglect, and/or neglect; and,
- accurately record the details of the interview.

Assess Level of Risk

While assessing whether the adult is or may be an adult in need of protective intervention, the social worker must:

- continue to assess the level of risk as extremely high, high, moderate or low; in accordance to the Risk Assessment Guidelines and Continuum (see 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 with an investigation;
- Take steps to complete an emergency intervention (see policy 2.11 – Emergency Intervention, and/or policy 2.12 – Emergency Intervention – Financial Affairs 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 and/or gather further information from other professionals 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 and/or informal sources. For example, neighbours, friends or family members may 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 lacks capacity to understand and/or appreciate any risk they are experiencing or there is insufficient or no evidence to suggest the adult is abused and/or neglected in a manner that meets the definition of an adult in need of protective intervention;
- professional/supportive services being offered and accepted to mitigate the risk experienced by the adult;

- a recommendation to the regional director to proceed with an adult protection investigation. This will occur if there is evidence to suggest the adult may meet the definition of an adult in need of protective intervention and is refusing or unable to access supportive services that would mitigate the risk sufficiently.

An investigation will also be recommended when the consent of the adult cannot be obtained or is withdrawn during the evaluation phase and an investigation is necessary to determine whether the adult is or may be an adult in need of protective intervention. The regional director must inform the provincial director that an investigation is underway as soon as possible.

If an investigation is warranted, the investigation must commence in accordance to the risk level identified on the Adult Protection Evaluation form and in consultation with the regional director.

Adult Protection Act Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.3: Investigation
Effective Date: December 15, 2022	Revised: September 27, 2023

Statutory Provisions

14. (1) Where an evaluation has been completed and a director believes, on reasonable grounds, that the adult is or may be 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 or may be 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.
- (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.
- (3) Notwithstanding subsection (1), where a social worker is not available, the minister may authorize another person to perform the duties or exercise the powers of an investigator for a specified period and subject to the terms and conditions the minister considers advisable.
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 is or may be an adult 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 to it;
 - (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.
- (6) Notwithstanding subsections (1) to (5), an adult who is the subject of an investigation may refuse to participate in an interview or undergo an assessment under this section, unless ordered to do so under section 20.

Policy

Upon completion of an evaluation, the regional director shall consider the information available and determine whether there are reasonable grounds to believe that the adult is or may be an adult in need of protective intervention.

The regional director must also direct an investigation when the consent of the adult cannot be obtained or is withdrawn during the evaluation phase and an investigation is necessary to determine if an adult is or may be an adult in need of protective intervention.

Investigations must be completed by a social worker employed with the provincial health authority; however, in the absence of a social worker the minister may authorize another person to act as an investigator. The investigator shall use the authority under section 16 of the Act to undertake an investigation.

Consent from the adult who may be in need of protective intervention is not required during an investigation, however an adult may choose not to participate in an interview or an assessment without a court order. 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 in accordance to policy 1.4 (Service Principles).

Information obtained during the investigation must be recorded clearly and accurately in accordance with provincial health authority guidelines, documentation regulations and policy 3.3.1 (Documentation).

An investigator shall make every reasonable effort to obtain information in the least intrusive way possible in accordance with policy 2.6 (Production of Documents). Where the investigator is denied relevant information, or the adult does not participate in an interview or assessment, the investigator shall determine what steps are necessary to complete the investigation and then take the appropriate steps to obtain the information in accordance with policies 2.4 (Warrant: Entry); 2.5 (Tele-warrant); 2.6 (Production of Documents); or 2.7 (Temporary Order – Assessment, Residency, Supervision, Financial and General).

During an investigation, it may be necessary to complete a formal capacity assessment. In addition to this policy and the following procedures, Formal Interdisciplinary Capacity Assessment Guidelines have been developed to guide the process (see Appendix T).

Formal capacity assessments must be conducted by an interdisciplinary team comprised of some or all members from the approved professions. The approved professions include:

- medicine;
- nursing;
- occupational therapy;
- physiotherapy;
- psychology;
- social work;
- speech language pathology; or
- a behaviour management specialist employed by an authority.

A formal capacity assessment must be initiated by the investigator when determined to be necessary. The assessment will be coordinated by the investigator who is also a member of the interdisciplinary team. Where a previous capacity assessment exists, the investigator must determine whether a new assessment is necessary.

Services such as home supports, legal and health care, in keeping with available resources, policies and programs, may be offered at any point in the investigation to mitigate or prevent risk and/or enable the adult to communicate a decision.

At all times during an investigation, risk to the adult must be assessed and appropriate steps taken to ensure the adult's safety. This could include more intrusive steps, such as a warrant or order, as outlined in policies 2.5 (Tele-warrant); 2.6 (Production of Documents); 2.7 (Temporary Order – Assessment, Residency, Supervision, Financial, and General) or 2.11 (Emergency Intervention). If the investigator is satisfied that the risk to the adult has been mitigated or if there has been a change in circumstances to the extent that the adult no longer meets the criteria of being an adult in need of protective intervention, the investigation will conclude. An investigation report is still required in all

circumstances to document the assessment work undertaken during the investigation as well as the findings that led to the determination to conclude the investigation.

An investigation shall be completed and an investigation report shall be submitted to the regional director not later than 30 days after the direction to complete the investigation was made. An investigation may be extended by obtaining a court order authorizing the extension in accordance with policy 2.8 (Action Following Investigation).

An investigation report must be submitted to the provincial director not later than 10 days following the conclusion of the investigation. The regional director may request additional time to submit the investigation report in writing to the provincial director. The report must be completed in accordance with policy 2.8 (Action Following Investigation) using the Adult Protection Investigation form (see appendix J) and User Guide (see appendix K).

Procedure

A social worker appointed as an investigator 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/or 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,
- review policy 3.3.2 (Confidentiality) if criminal activity is suspected, and following consultation with a coordinator/manager, the regional director will determine whether a police referral is appropriate.

Investigators have authority under the Act to obtain the information they need from third parties to complete their investigation. If at any time during an investigation, the investigator is unable to gain the cooperation to obtain information that is necessary for the completion of the investigation, they may make an application for a temporary order to obtain necessary documents in accordance with section 19 of the Act and policy 2.6 (Production of Documents).

Interview the Adult Who May Be in Need of Protective Intervention

During the interview with the adult, the investigator must:

- explain to the adult why an investigation has been ordered and how the investigation will proceed;
- inform the adult of their right to legal counsel in accordance to policy 1.3 (Presumption and Right to be Heard) and their right to refuse to participate in the investigation process;
- 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 in accordance with policy 1.4 (Service Principles).

During the course of the investigation, the investigator may need to take additional steps to obtain information necessary to fulfill their obligations under section 16. This may include a medical or other assessment of the adult, including a financial assessment of the adult's assets and property. The investigator can seek an order to undertake these steps in accordance with Sections 20-22 of the Act and policy 2.7 (Temporary Order – Assessment, Residency, Supervision, Financial, and General).

The investigation process may also require the completion of a formal capacity assessment. A formal capacity assessment under the Act must be interdisciplinary. Undertaking a formal capacity assessment is an intrusive process that must be carefully considered and coordinated by the investigator. The investigator, in consultation with their coordinator/manager and the regional director, will determine whether a formal capacity assessment is necessary. In making this determination, an investigator must consider all relevant factors and valid triggers, including but not limited to:

- whether the adult appears unable to understand and appreciate the risk(s);
- whether there is evidence of abuse, neglect and/or self-neglect;
- whether reasonable attempts have been made to mitigate the risk without success.

During the investigation, it is not necessary to obtain the adult's consent, however every effort must be made to involve the adult to the greatest extent possible in accordance with policy 1.4 (Service Principles) and the below procedures. Where an investigator has determined that a formal capacity assessment is required and an adult refuses to participate, a temporary order will be required to proceed. The Temporary Order application must be completed in accordance with policy 2.7 (Temporary Order – Assessment, Residency, Supervision, Financial, and General).

Coordinate a Formal Capacity Assessment (if necessary)

- The investigator will coordinate the completion of a formal capacity assessment.

- A formal capacity assessment must be completed in accordance with adult protection regulations. Formal Interdisciplinary Capacity Assessment Guidelines have been developed to supplement the procedures below and to support the coordination and documentation of the assessment (see appendix T).
- Disciplines that can participate in this process are identified in the adult protection regulations.
- Reasonable attempts must be made to mitigate the risk(s) before proceeding with a formal capacity assessment.
- The investigator will coordinate meetings of the interdisciplinary team where required, including an initial one to review roles and responsibilities.
- The investigator will determine the capacity question(s) to be assessed. In some instances, there may be more than one question.
- If more than one domain and/or decision must be assessed due to risk, each domain and/or decision must be considered individually.
- Each member of the interdisciplinary team will complete a capacity assessment based on the identified question(s). The coordinating investigator is also a member of the interdisciplinary team and must complete an interview in accordance with the below procedures and the formal capacity assessment process (see appendix T).
- In some instances, an assessment may have already been completed by a particular discipline. It is preferable that a new assessment be completed. The investigator may use a previously completed capacity assessment to inform the formal assessment, however careful consideration must be given to this decision and the investigator must be satisfied that a new assessment is not necessary. Factors to consider in making this determination can include but are not limited to:
 - whether the previous assessment states that the adult will not likely regain their capacity;
 - whether the previous assessment addresses the specific area(s) of risk;
 - whether the previous assessment is still considered relevant and valid by the author; and,
 - the fluidity of capacity.
- The investigator will determine the degree and nature of the consultations required for the interdisciplinary team. Where possible, consensus from team members regarding the adult's capacity to make decisions in each area will be reached. If consensus is not reached, the investigator may facilitate additional meetings to allow each team member opportunity to provide feedback. If consensus cannot be obtained, the investigator must clearly document the team's efforts and attach all reports.
- Each professional must complete and sign a report representing their discipline. Report forms are included in appendix T.
- The investigator must also complete a summary of the formal assessment findings. A report form is provided in appendix T.
- When an application for an order is being sought under the Act, the clinical determination of capacity informs the court in the consideration of the legal status of the adult's capacity.
- The results of the capacity assessment also supports the determination of risk as outlined in the Risk Assessment Guidelines and Continuum (appendix A).

Undertaking a Formal Capacity Assessment

- It is preferable for the adult who may be in need of protective intervention to participate directly in the capacity interview; and for the interview to be completed in the adult's home environment. If an adult refuses or is unable to participate directly in the capacity interview, information can be obtained from collateral sources such as family, friends, neighbours and services providers; however observation of the adult's appearance, living conditions, and behaviour must occur as well.
- It may be necessary for an adult to be assessed medically in an acute care facility. The information from this assessment may be used to inform a formal capacity assessment.
- Before an adult is interviewed during a formal capacity assessment, every effort must be made within program guidelines to assist the adult to communicate effectively and/or access the meeting space. This can include, but is not limited to, communication aids, interpretation/translation services and/or a spokesperson. If a spokesperson is present during the interview, that individual must not speak for the adult; the spokesperson must attempt to ensure the assessor's questions are understood by the adult and the adult's answers are understood by the assessor;
- Discussion about the adult's unique needs may occur with the adult, the adult's family, friends, and/or others sources.
- Historical information can be gathered from interviews with multiple sources. This information can highlight any changes with the adult that are inconsistent with that adult's lifelong patterns of behaviour. Information from staff at institutions such as banks can identify changes inconsistent with the adult's previous way of conducting business.
- The adult's cultural values, beliefs and practices must be considered throughout the formal capacity assessment.
- Professional judgment based on knowledge and skills of the assessor is an integral part of the capacity assessment process.
- Following the completion of the formal capacity assessment, the adult must be advised of the outcome of the assessment to the fullest extent possible.

Capacity Interview Preparation

The investigator must:

- review information as provided in the report and evaluation forms (see appendices C [Report form RHA]; E [Police Report form]; and F [Evaluation form]). This includes details about the alleged abuse and/or neglect and whether an adult appears to understand and/or 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 (with adult)

The investigator must:

- explain to the adult the purpose of the formal capacity assessment and outline the process to be followed. Additional introductory considerations are included the social work component of the Formal Interdisciplinary Capacity Assessment Guidelines (see appendix T). Be sure to try to use a form of communication the adult understands such as plain language, a tool to enhance hearing, or a spokesperson to provide communication support;
- determine, using a set of structured questions, whether the adult understands and/or appreciates the risk(s) related to the specific decision and area being assessed. Suggested questions are included in the social work component of the formal capacity assessment process (see appendix T); and,
- document the information from the interview(s) including the names of the participants, questions asked and the responses to the questions (either verbatim or in summary). Clear and accurate record keeping is necessary as records 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.
- The adult demonstrates a consistent train of thought throughout the interview through conversation or another form of communication.
- The adult can identify options for mitigating the risk.

Contributions From Members of the Interdisciplinary Team

- The capacity assessment of each team member 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 formal 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 and/or a disability 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 this decision(s)? If there is no reasonable expectation for improvement, does the adult lack capacity to make this decision(s)?

- A professional might choose to use a standardized tool to assist with the assessment of capacity. It is important to note that the choice of tool is dependent on professional preference and area of capacity being explored.
- An assessment tool(s) results may provide indicators of the adult's ability to understand and/or appreciate risk or it may signal the need for further assessment. The results are not the sole indicator of an adult's capacity for decision-making.
- Functional assessments may also be needed. It may be necessary to assess the adult's ability to safely manage their daily routine. A 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.

During the investigation, the investigator must continually assess risk in relation to the adult. As the investigation continues, new information may be acquired that could impact the level of risk. It is critical that an investigator consider any new information in relation to the report received and take appropriate steps should the information impact the investigation. For example, should the adult accept supportive services that reduce risk, they may not meet the criteria of being an adult in need of protective intervention and the investigation may be concluded.

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 under the **Advance Health Care Directives Act** in regard to health decisions, an enduring power of attorney in relation to financial decisions (**Enduring Powers of Attorney Act**) or through an application under either the **Mentally Disabled Persons Estates Act** or the **Judicature Act** for the appointment of a guardian. If the adult has a legally recognized decision-maker in place who can make decisions in the areas in which the adult lacks capacity, they may not meet the criteria of an adult in need of protective intervention and further action under the Act may not be necessary. The Act should only be used as a last resort and the above alternative options should always be explored during the investigative process as a means to mitigate risk by less intrusive and restrictive means.

Conclusion of an Investigation

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.

An investigation report must be completed and submitted to the regional director not later than 30 days after the direction to complete the investigation was given. Where the investigator believes they cannot complete the investigation within the 30 day period, they must apply to court for an extension of the investigation in accordance with policy 2.8 (Action Following Investigation). **An order extending the investigation must be obtained prior to the expiration of the investigation.**

An investigation report must be submitted to the provincial director not later than 10 days following the completion of the investigation or within a time period identified by the provincial director. The report will be completed using the Adult Protection Investigation form (see appendix J) and must include a copy of the formal capacity assessment, if completed, and/or any applicable court orders. A service plan must also be included if seeking an application for declaration.

Adult Protection Act Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.4: Warrant: Entry
Effective Date: December 15, 2022	Revised: September 27, 2023

Statutory Provision

17. (1) A judge may issue a warrant authorizing a director or an investigator named in the warrant to enter onto lands or premises and exercise a power referred to in section 16 where the judge is satisfied on evidence under oath that
- (a) there are reasonable grounds to believe that the adult who is the subject of the investigation is or may be an adult in need of protective intervention;
 - (b) there are reasonable grounds to believe that entry onto the lands or premises is necessary to assess the adult who is the subject of the investigation or access, copy or remove documents necessary for the investigation; and
 - (c) either
 - (i) the director or investigator has been denied entry onto the lands or premises or has been obstructed in exercising a power under section 16 with respect to the lands or premises, or
 - (ii) there are reasonable grounds to believe the director or investigator will be denied entry onto 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 onto 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 the director or investigator considers advisable to assist in the execution of the warrant.

Policy

During the course of an investigation, an investigator may be unable to assess a person, obtain documents or take copies of documents authorized by the Act because they are unable to enter a home, other lands or premises.

When this occurs, the investigator shall prepare a report in consultation with the coordinator/manager for the consideration of the regional director stating the reasons why access to the home, lands or premises is needed. The regional director may wish to consult with their legal counsel before determining that obtaining a warrant under section 17 of the Act is appropriate.

If it is determined that it is appropriate to apply for a warrant, the investigator will apply for a warrant, using an **Information to Obtain a Warrant to Enter** (see appendix L) which is presented to a judge. The details from the report as well as other relevant information will be outlined for the judge in that document.

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, in order to facilitate access to undertake an assessment of the adult or to obtain documents. The warrant may specify the times when entry can occur and when the authority under the warrant will end. Where the warrant is in effect for a specified time frame, the investigator can only undertake the assessment, collection of and copying of documents for the period authorized by the warrant.

The warrant does not authorize the investigator to undertake work not considered when making the application for the warrant, nor medical assessments, formal capacity assessments and does not oblige the adult who is the subject of an assessment to cooperate or comply with the assessment.

Where circumstances require, a peace officer may be asked to accompany the investigator who executes the warrant. The investigator may involve other persons in assisting with the execution of the warrant.

Procedure

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

- Consult with the coordinator/manager/regional director of adult protection to decide whether to proceed with an application for a warrant.
- A written report must be included in the application seeking a warrant. The report must include:

- 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 or may be an adult in need of protective intervention such as the adult might lack capacity and/or might be abused, neglected, or self-neglecting;
- details about the perceived level of risk to the adult;
- information about the owner of the property or who controls access to the property if it is not the adult who is the subject of the investigation; and,
- what the investigator requires with entry (e.g., to obtain documents, copies of documents or to undertake an assessment of 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 and all efforts will need to be undertaken while the warrant is valid.
- Provincial health authority legal counsel may be consulted to discuss the sufficiency of the report, the process of completing the **Information to Obtain a Warrant to Enter** including to whom the warrant will need to be served.
- The **Information to Obtain a Warrant to Enter** will then be filed with the Provincial or Supreme Court.
- The investigator may be required to be present in court when the application is heard.
- A judge will review the application and determine whether to grant a warrant to enter.
- If the warrant is issued, the investigator must serve the warrant on the adult to whom the warrant applies.
- The investigator may involve other persons in assisting with the execution of the warrant including, but not limited to:
 - peace officers;
 - family; and/or,
 - support persons.
- Where it appears forcible entry is required to execute the warrant, the investigator must seek the assistance of a peace officer.
- The original **Information to Obtain a Warrant to Enter** is retained by the court as well as a copy of the warrant to enter.
- Copies of the entire court application, including a copy of the warrant to enter must be placed 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. In some cases, this may include the adult, or persons who own or control the property to which the warrant grants entry.
- An affidavit of service must be completed following the serving of the warrant.

Adult Protection Act Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.5: Tele-warrant
Effective Date: December 15, 2022	Revised: September 27, 2023

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 onto 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 provincial health authority may make an application for a warrant by telephone or other means of telecommunication.

Procedure

The process 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 prior to proceeding.
- A report must be completed outlining all of the information required for an **Information to Obtain a Warrant to Enter** under policy 2.4 (Warrant: Entry) as well as the reasons why the application cannot be made in person.
- If seeking a warrant after hours, the investigator shall contact the on-call duty judge.
- The investigator must provide the information recorded on the **Information to Obtain a Tele-warrant to Enter** form to the judge. The investigator shall give that information under oath or affirmation, by telephone, or other means of telecommunication.

- If the judge issues the tele-warrant, the judge will complete the **Tele-warrant to Enter** form and submit it by electronic means to the investigator/designate; or state over the phone the words to be inserted 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 may involve other persons in assisting with the execution of the warrant including, but not limited to:
 - peace officers;
 - family; and/or,
 - support persons.
- Where it appears forcible entry is required to execute the warrant, the investigator must seek the assistance of a peace officer.
- 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**.
- Copies of the entire court application including the **Tele-warrant to Enter** must be placed 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.
- An affidavit of service must be completed following the serving of the warrant.

Adult Protection Act Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.6: Production of Documents
Effective Date: December 15, 2022	Revised: September 27, 2023

Statutory Provision

19. (1) Where after the commencement of an investigation under section 14 and prior to the issuance of an order under section 25, a director reasonably believes that an adult is or may be in need of protective intervention, the director may apply to a court for an order requiring a person to provide information or produce records, documents or other things referred to in section 16.
- (2) A judge may make an order under subsection (1) where
- (a) there are reasonable grounds to believe that the information, record, document or other thing is necessary for determining whether an adult is in need of protective intervention;
 - (b) there are reasonable grounds to believe that the person has possession or control of the information, record, document or other thing; and
 - (c) the person has neglected or refused, on request of a director or a social worker, to provide information or produce the record, document or other thing.
- (3) Notice of the date, time and place of a hearing under this section shall be served on the person against whom the order is sought no later than 2 days before the date set for the hearing.
- (4) Notwithstanding subsection (3), where a director believes on reasonable grounds that the information, record, document or other thing may be destroyed where notice is given, an application under this section may be heard without notice to the person against whom the order is sought.
- (5) Where an application is made under this section, the court shall hold a hearing no later than 5 days after the application is filed.

Policy

The provincial director, regional director or a social worker has the right to information concerning an adult where that information is necessary to determine whether an adult is in need of protective intervention. A person shall cooperate with an investigation, including providing information or producing records, documents or other things in that person's possession or control which may be relevant to the investigation.

A social worker shall make every reasonable effort to obtain information in the least intrusive way possible. When making a request for information, the person shall be informed that the social worker has a right to information in accordance to section 32 of the Act and that the person is required to cooperate with the investigation in accordance to section 16 of the Act. A letter to the person from a regional director outlining the person's legal obligations may be completed (see template letter in appendix M).

Following the issuance of such a letter, should the person neglect or refuse to provide information or produce a record, the investigator shall determine whether the information is necessary for them to complete their investigation.

Where the investigator feels there are reasonable grounds to believe the information is necessary for determining whether the adult is an adult in need of protective intervention; there are reasonable grounds to believe that the person has possession of the information; and the person has neglected or refused to provide the information requested, the investigator may apply to the court for an order directing the person to provide the information in accordance with section 19 of the Act. Prior to seeking a section 19 order, the investigator shall consult with their manager and regional director. The regional director may wish to consult their legal counsel.

If a section 19 order is sought, notice of the date, time and place of a hearing shall be served on the person against whom the order is sought no later than two days before the date set for the hearing. The court shall hold a hearing no later than five days after the section 19 application is filed.

If there are reasonable grounds to believe that the information or record may be destroyed where notice is given, an application may be heard without notice to the person. The investigator may wish to discuss with their legal counsel whether the application should be undertaken with or without notice.

Procedure

Prior to seeking a section 19 order, the social worker must make attempts to obtain the information from the person, and must ensure that they notify the person that the social worker has a right to information in accordance to section 32 of the Act, and that the person is required to cooperate with the investigation in accordance to section 16 of the Act. A letter to the person from the regional director outlining the person's legal obligations may be completed to provide this information. It can also be conveyed to the person that failure to provide the information may result in an application being made for a court order to obtain the information.

If the person from whom the information is sought fails to comply, a section 19 order may be required. The process for obtaining a section 19 order is as follows:

- The social worker must consult with their manager and regional director. The regional director may wish to consult with legal counsel.

- The social worker, in consultation with their manager and regional director, will consider whether there are reasonable grounds to believe that the information or record may be destroyed if notice is given.
- The following forms must be completed:
 - Application to Produce Records;
 - Affidavit;
 - Notice to the Respondent (where applicable); and,
 - Affidavit of Service
- The application to produce records must contain:
 - the specifics of the information being requested;
 - the purpose for which the information is requested; and,
 - the efforts that have been made to obtain the information.
- The application will have to be filed with the relevant court, which will set a date for the hearing.
- The social worker must provide notice of the date, time and place of the hearing to the person against whom the order is sought. If the application is made without notice to the respondent, the social worker may be required to explain to the court why they believe there is a risk of the information being destroyed if notice is given.
- A judge will review the application and determine whether to make an order.
- If the order is granted, the social worker must execute the order by providing the appropriate person a copy of the order.
- If a person fails to comply with the order, the social worker shall advise the regional director immediately to discuss the next steps. The regional director may wish to consult their legal counsel.

Adult Protection Act Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.7: Temporary Order – Assessment, Residency, and Supervision, Financial and General
Effective Date: December 15, 2022	Revised: September 27, 2023

Statutory Provision

Temporary Order – Assessment, Residency and Supervision

20. (1) Where, after the commencement of an investigation under section 14 and prior to the issuance of an order under section 25, a director reasonably believes that an adult is or may be in need of protective intervention, the director may apply to court for an order under subsection (2).
- (2) Where the court is satisfied, on an application made under subsection (1), that there are reasonable grounds to believe that the adult who is subject of the application is or may be in need of protective intervention and that it is in the best interests of the adult to do so, the court may make one or more of the following orders:
- (a) an order that the adult undergo a medical assessment by a health care professional;
 - (b) an order that the adult undergo a capacity assessment under subsection 6(5);
 - (c) an order that a person performing an assessment under paragraph (a) or (b) be authorized to enter a premises to perform the assessment or that the adult be brought to an identified location for the purposes of the assessment;
 - (d) an order that the adult be placed under supervision of the director, on the terms and conditions set out in the order;
 - (e) an order that the adult reside in a place identified by the director, on the terms and conditions set out in the order;
 - (f) an order that the adult lacks capacity with respect to one or more of their health care, physical, emotional, psychological, financial, legal, residential or social needs, and that the director or another person identified in the order is authorized to make decisions on behalf of the adult as set out in the order;
- and

- (g) any other order that the court considers necessary and appropriate to ensure the safety and well-being of the adult or to preserve the adult's personal property.
- (3) Where the court makes an order under paragraph 2(c) or 2(e) and there are reasonable grounds to believe that there is a risk of loss or damage to property as a result of the adult's inability to reside in or deal with the property, and that no other suitable arrangements have been or are being made for the purpose, the order shall authorize a director or another person designated in the order to enter a premises and take reasonable steps to prevent or mitigate loss of or damage to the property.

Temporary Order – Financial

- 21. (1) Where, after the commencement of an investigation under section 14 and prior to the issuance of an order under section 25, a director reasonably believes that an adult is or may be in need of protective intervention, the director may apply to court for an order under subsection (2).
- (2) Where the court is satisfied, on an application under subsection (1), that there are reasonable grounds to believe that the adult who is subject of the application is or may be in need of protective intervention and that it is necessary to conduct a financial evaluation of the adult's real or personal property, including financial assets, and to ensure the protection of the adult's property and assets, the court may make one or more of the following orders:
 - (a) an order that a director, social worker or other appropriate person conduct an audit or financial evaluation of the real or personal property, including financial assets, of the adult; and;
 - (b) an order that the public trustee or other appropriate person become the guardian of the real or personal property, including financial assets, of the adult for such period of time as the judge considers necessary.
- (3) Notwithstanding paragraph (2)(b), the court shall not make an order that the public trustee become a guardian unless
 - (a) the public trustee has been given notice of the application and an opportunity to make representation with respect to the application;
 - (b) the public trustee consents to the order.

Temporary Orders – General

- 22. (1) Where an adult consents to an order made under section 19, section 20 or section 21, a judge shall be satisfied that
 - (a) the opinion of the adult has been considered; and

- (b) the adult consenting to the order has been informed that they may be represented by legal counsel
- (2) A consent by an adult under this Act is not an admission by the adult of a ground for protective intervention alleged by a director or social worker.
 - (3) Where an application is made under section 20 or 21, the court shall hold a hearing no later than 5 days after the application is filed.
 - (4) Notice of the date, time and place of a hearing under section 20 or 21 shall be served, no later than 2 days before the date set for the hearing, on
 - (a) the adult who is the subject of the application;
 - (b) a person with whom the adult who is subject of the application resides, where the director considers it appropriate;
 - (c) the next of kin of the adult who is the subject of the application, and where the next of kin is determined to be the children or siblings of the adult, reasonable efforts shall be made to notify all those children or siblings; and
 - (d) the adult's spokesperson, where a spokesperson has been previously identified by the adult or where the director considers it appropriate.
 - (5) An adult who is the subject of an application under section 19, section 20 or section 21 has a right to be heard, directly or indirectly, in all proceedings relating to the application, and that adult may be consulted in private if the adult so desires.
 - (6) Notwithstanding subsection (5), where a director believes on reasonable grounds that providing notice under subsection (4) would put the adult who is the subject of the application or the adult's real or personal property, including financial assets, at risk, the director may make an application, without notice to any other party, to the court to dispense with the requirement for notice and the court may make an order the court considers appropriate in the circumstances.
 - (7) An order issued under section 20 or 21 shall expire 30 days after the date on which it is made, unless terminated under subsection (8) or extended under subsection (9).
 - (8) Where a material change in circumstances occurs, a director or a person who received notice under subsection (4) may apply to the court to terminate or vary the order, and the court may terminate or vary the order where the court is satisfied that the termination or variation is in the best interests of the adult who is the subject of the order and would not cause the adult to be in need of protective intervention.
 - (9) Where a director makes an application before the date an order expires under subsection (7), the court may extend an order under section 20 or 21 for a

further period of up to 30 days, on the same terms and conditions or on the terms and conditions the court considers appropriate.

(10) Notwithstanding subsection (7) or (9), an order made under section 20 or 21 shall expire on

(a) the date an order is issued under section 25; or

(b) the date an application under section 24 is dismissed.

Policy

Where, during an investigation and/or before the issuance of a declaration order, a regional director reasonably believes that an adult is or may be an adult in need of protective intervention, a temporary order may be required. Following a section 26 emergency intervention, a temporary order must be sought.

A temporary order may be required for a number of reasons:

- to complete components of an investigation, including a medical or capacity assessment;
- to protect an adult and/or their property while an investigation is being undertaken;
- to protect an adult and/or their property after an investigation has been concluded, and while awaiting a declaration hearing;
- other circumstances that are not explicitly set out in the Act, but which in the opinion of the director, need to be put in place to ensure the safety and well-being of the adult;

Prior to seeking a temporary order, consistent with the service principles of the Act, less intrusive and restrictive options to complete the investigation and/or mitigate the risk must be explored. A temporary order should only be sought in cases where all reasonable interventions outside of court have been exhausted.

The social worker, in consultation with their manager and director, must determine the type of order that is required to ensure that it meets the criteria for a temporary order and is the least intrusive means of proceeding. The type of temporary order requested will depend on the needs of the adult, the level of risk, the area(s) of risk and the investigation requirements (if applicable). The social worker should review and consider the procedures that relate to the specific temporary order being sought.

Application and Court Process

The court is required to hold a hearing no later than five days after the temporary order application is filed. Notice of the date, time and place of the hearing shall be served, no later than two days before the date set for the hearing, on the following persons (see appendix L):

- the adult who is the subject of the application;
- a person with whom the adult resides (where the director considers it appropriate);

- the next of kin of the adult, and where the next of kin is determined to be the children or siblings of the adult, reasonable efforts shall be made to notify all those children or siblings;
- the adult's spokesperson, where a spokesperson has been previously identified by the adult or where the director considers it appropriate; and,
- the public trustee (when seeking a section 21(2)(b) order).

The adult who is the subject of the application has the right to be heard in all proceedings relating to the application. In some instances, there may be a concern about the participation of the adult, or providing notice to another person noted above. Where the director believes on reasonable grounds that providing notice of the application would put the adult and/or their real or personal property at risk, the director may apply to the court to dispense with the notice requirement. This may be discussed with legal counsel to determine if the circumstances warrant proceeding in this way, as it may deprive the adult of an opportunity to participate in the hearing and should only be considered when necessary.

An application dispensing with notice will be heard by the court, without any party other than the director being present. The court will make the order it considers appropriate in this circumstance, which may include dispensing with notice to some or all of the persons indicated above.

An adult also has the right to legal representation in a matter or proceeding under the Act; and an adult is presumed to have the capacity to instruct legal counsel even if their capacity to make decisions is at issue in a proceeding. Where the regional director makes application for a temporary order, the social worker must advise the adult of their right to legal counsel and provide appropriate assistance to the adult in applying for and obtaining legal counsel in accordance to policy 1.3 (Presumption and Right to be Heard).

The adult who is the subject of the application may consent to the temporary order. Where an adult consents to the temporary order, it is not an admission that they are an adult in need of protective intervention, and it is not a finding that they lack capacity. Before issuing an order with the consent of the adult, the judge will satisfy themselves that the opinion of the adult has been considered and the adult has been informed that they may be represented by legal counsel to contest the application. Once the order has been approved by the judge, it is enforceable, and the adult cannot withdraw their consent without an application to court to consider a change to the order itself or the order expires.

The provincial director shall be notified if a temporary order application is made and when a temporary order is granted. A copy of the temporary order must be sent to provincial office at the earliest opportunity.

Termination, Extension and Varying of Temporary Orders

An order granted under section 20 and/or section 21 will expire in 30 days without any further action, unless the order is extended or terminated in accordance with the Act. An

order may be terminated where a director or one of the persons who had notice of the original application believes that a material change of circumstances warrants terminating the order. A material change in circumstances is a change that has a significant impact on an adult's situation. This can include, but is not limited to, finding an alternative care arrangement for the adult to address risk without needing a court order or the conclusion of an assessment indicating that the adult no longer needs to be kept at a specific location under an order.

This process can also be used if it is believed that the current terms of the order should be varied rather than terminated. For example, if there is a temporary order for an assessment to be done at a named health care facility, and due to availability of the needed assessor, the assessment will occur in another facility, or in the adult's home. This would require a variation of the temporary order.

The court will terminate or vary a temporary order if satisfied that there has been a material change in circumstances, and either terminating or varying the order is in the best interest of the adult and would not cause them to be in need of protective intervention.

Application for extension of a temporary order can only be made by a director. Before the order expires, if the director believes that it is necessary that the order remain in place, they may apply to the court for an extension of the order. A director may apply for an extension where it is required to:

- complete any outstanding components of an investigation;
- continue to protect an adult and/or their assets during an investigation; or,
- protect an adult and/or their assets while awaiting a declaration hearing.

An application made to extend the temporary order should consider whether all of the terms and conditions of the order need to be extended, or whether the current order should be varied in some fashion due to a change in circumstances. It is important to ensure that any order is the least intrusive option available and that orders are extended only when necessary. The court will consider any application to extend a temporary order, but may change the terms and conditions of the extended order as considered appropriate.

Social workers and directors should be aware of the possible refusal to extend, vary, or terminate a temporary, and ensure planning is in place should any of these events occur. While not preferred, it is possible that the court will not hear the application to extend until after the order has expired. Social workers and directors should also ensure that planning is in place should that occur.

Regardless of the status of a temporary order, and when it was last extended, it will expire automatically when a declaration order is granted or when a declaration application is dismissed.

Procedure

Prior to seeking a temporary order, the social worker, in consultation with their manager and director, must determine the type(s) of order that is required. An application made under this section can seek one or more of the orders available under section 20 and/or 21, but the application must specifically request the type(s) of orders required. It is important that the social worker consider and identify all of the components of the temporary order required to ensure the court is provided with the information needed to make the appropriate orders.

Applications for temporary orders may include requests for one or more of the following:

Completion of a medical assessment: A temporary order may be required to complete a medical assessment and gather critical information on the adult's health status. Information regarding an adult's diagnosis and/or disability may inform an investigation and help identify any temporary health issues that may be impacting the adult's capacity. Consideration should be given to whether members of the assessment team will need an order to support access to the adult to perform this work and/or whether the adult will need to be brought to a specific location to have the assessment completed. These kinds of considerations may suggest that the application for a temporary order will need to include a request for one or more of the other types of orders set out below.

Completion of a formal capacity assessment: If an adult is unable to demonstrate understanding and appreciation of their current level of risk, and is not agreeing to participate in a formal capacity assessment, a social worker may seek a court order to coordinate the assessment. A formal capacity assessment must be completed in accordance to the regulations, policy 2.3 (Investigation) and the Formal Interdisciplinary Capacity Assessment Guidelines (see appendix T). Access to the adult and/or the location for the assessment should be considered and the specific requests included in the application.

Enter the premises to perform an assessment: A professional completing any part of the assessment must have access to the adult who is being assessed. An order may be required to authorize a professional to enter the applicable premises to complete the assessment. This could include access to the adult's residence, or such other premises at which the adult may be located, including a hospital or health care facility. Risk to the professional exercising that access must be assessed and if necessary, the application should request that a peace officer be authorized to accompany and assist the professional.

Bring the adult to a location for an assessment: An order may be required to bring the adult to an identified location for a medical, capacity and/or other assessment. The social worker 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 an order is sought to bring the adult to another location, the application must identify where the adult is to be taken and should consider any additional terms and conditions required to facilitate the assessment (e.g.,

authority to maintain the person in a location for the duration of the assessment). If required, the application should request that a peace officer be authorized to accompany and assist the social worker. In considering this type of order, the social worker should be aware of the limits of naming a particular facility; if an order is made authorizing a location by name specifically, and a change of location occurs for extenuating reasons, the order may need to be varied before it can be effected. Any order authorizing that the adult will be brought to a location for assessment should specify who should accompany the adult, including whether the assistance of a peace officer, ambulance service or other person(s) is required.

Place under director supervision: During an investigation and/or while awaiting a declaration hearing, an order may be required to place an adult under the supervision of a director. A supervision order may be sought where an adult is or may be in need of protective intervention, and is refusing supportive services and the risk can be mitigated without removing the adult from their living arrangement. Where appropriate, this is a preferable and less intrusive option. For example, supervision by a director may be required where an adult remains living in the community but requires ongoing monitoring and support to mitigate the risk for the duration of the order. The application for a supervision order must outline the specific authority requested under the order (e.g., right of access to the adult's home, right to access information about the adult's engagement with services, etc.). Terms and conditions may be sought to direct the adult to participate in a service under the supervision of a director.

Reside in a place identified by the regional director: An order may be required to temporarily place an adult in a residence identified by the regional director for the duration of an investigation and/or while awaiting a declaration hearing. The specific terms and conditions requested must be articulated in the application, including but not limited to the type of residence, services to be provided and any reasonable measures required to facilitate the placement.

Risk of loss or damage to property of the adult: Where a temporary order is sought that will remove an adult from their residence or property, the social worker must consider whether the adult's property may be at risk of loss or damage. Where they have reasonable grounds to believe that such loss could occur because the adult will not be present, and there are no other suitable arrangements that have been made, the director may seek to have themselves or another person designated to enter the premises and take reasonable steps to prevent or mitigate loss or damage. This can include, but is not limited to, ensuring doors and windows are secured, heat is appropriately regulated and any valuables are secured. An application should set out what the social worker believes needs to happen and who will undertake the responsibility for doing this work. For example, if a neighbour will attend to the residence but the social worker will go to the residence and ensure that valuables are located and secured. Other considerations may include but are not limited to notifying insurance providers and ensuring that the residence can be kept secured (i.e., changed locks if other persons may have keys).

It is preferable and least intrusive to work with families and the adult to determine if suitable arrangements can be found rather than pursue a court order. However, if such an order is made requiring the social worker to fulfill any obligations in regard to the home or its contents, the social worker should be clear on the scope of their responsibilities and only attend the home accompanied by a witness who can document what was done at the home and the state of the home. The social worker, if obliged to obtain and secure valuables, must record any items removed from the premises for safekeeping such as cash, cheques and/or jewelry. Photographs of items may be taken and the items must be placed in an envelope. The signature of the social worker 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 provincial health authority. Documentation must reflect the actions taken, as well as the storage location of the valuables for future reference. The director should approve and be aware of the location where any valuables are stored and ensure that access to the valuables is secure.

Decision-making order: During an investigation and/or prior to a declaration order, the level of risk may require that a regional director or another person be authorized to make decisions on behalf of the adult in the particular area(s) where the adult is **clinically** believed to lack capacity. This can include one or more decisions related to the adult's health care, physical, emotional, psychological, financial, legal, residential or social needs.

This type of order may be pursued where an adult appears to lack capacity in a particular area or areas and decision-making authority by a regional director or another person is required to mitigate the risk of abuse, neglect or self-neglect during an investigation and/or prior to a declaration order. It should be considered only if all less intrusive measures are not adequate to ensure the protection of the adult. While the order can grant decision-making to the director, it also can authorize another person to fulfill this role. Another person is any person who the court is satisfied is willing and capable of making decisions in the adult's best interest to mitigate the risk(s). Prior to making an application for this kind of order, the social worker should consider, as a least intrusive option, family members, a spokesperson or other persons who may be able to fulfill this role and support the adult.

Where a formal capacity assessment has not been completed and has not yet commenced, an application for this type of order is a valid trigger to begin the process in accordance to policy 2.3 (Investigation) and the Formal Interdisciplinary Capacity Assessment Guidelines (see appendix T).

Completion of a financial evaluation of real or personal property: During the course of an investigation, evaluation of assets, real property, bank accounts and other financial matters may be required and an order may be necessary to facilitate this process. Consideration should be given to the person best suited to undertake this work. This may be a director, social worker or other appropriate person. An appropriate person should be a person with the proper expertise to understand and review the documents and information required.

Guardian of the real or personal property: During an investigation and/or prior to a declaration order, an adult who is or may be an adult in need of protective intervention may be experiencing financial abuse and/or may lack capacity in respect to their finances. If the social worker is concerned that there is a risk of loss to the adult due to their inability to manage finances and/or the abuse of another person controlling the adult's finances, the social worker should consider seeking an order that an appropriate person be appointed as an interim guardian of the adult's personal and real property, including financial assets. An appropriate person may be a family member, other person or the public trustee. Under the Act, the court cannot name the public trustee in an order without notice of the application and an opportunity to make representations about the order and consent to being named in the order. The public trustee should be consulted prior to this form of application.

Any other order to ensure the adult's safety and/or preserve the adult's property: Additional authority not covered in the above orders may be requested to ensure the safety and well-being of the adult and/or preserve the adult's property. This provision is intended to be available for unusual circumstances that may not fit in the above orders.

Applying for a Temporary Order

The process for obtaining a temporary order is as follows:

- The social worker must consult with their manager and director. If the social worker is seeking an order to appoint the public trustee as a temporary guardian, the public trustee should be consulted prior to filing the application.
- It must be determined what types of orders will be sought and the information that will be needed to satisfy the court that it is appropriate to give that order.
- The social worker, in consultation with their manager and director, will consider whether there are reasonable grounds to believe that providing notice of the application will put the adult and/or their property at risk. If so, consultation with legal counsel to dispense with notice of the application is encouraged. Otherwise, the application will be prepared as follows.
- The following forms must be completed (see appendix L):
 - Application for a Temporary Order;
 - Affidavit;
 - Notice to the Adult/Respondent(s); and,
 - Affidavit of Service.
- The application for a temporary order must:
 - provide information regarding the level of risk the adult is experiencing, including indicators of abuse, neglect and/or self-neglect;
 - provide information relevant to the adult's ability to understand and/or appreciate the specific area(s) of risk;
 - provide information regarding the specific efforts made without a court order to mitigate the specific risks of concern in this application; and,
 - provide specific information regarding the type(s) of order required including identifying any persons and locations necessary for the type of order sought.

- The provincial health authority shall ensure that the application is filed and a court date requested no later than five days after the application has been filed;
- The social worker or director shall notify the provincial director that a temporary order application has been made;
- At the earliest opportunity and no later than 2 days before the date set for the hearing, a social worker shall serve notice of the date, time and place of the hearing upon:
 - the adult who is the subject of the application;
 - a person with whom the adult resides (where the regional director considers it appropriate);
 - the next of kin of the adult, and where the next of kin is determined to be the children or siblings of the adult, reasonable efforts shall be made to notify all those children or siblings;
 - the adult's spokesperson, where a spokesperson has been previously identified by the adult or where the director considers it appropriate; and,
 - the public trustee (when seeking a section 21(2)(b) order).
- The person who served the notices is required to complete an **Affidavit of Service** for each person served. Each original **Affidavit of Service** must be filed with the court at the earliest opportunity and prior to the hearing date. A copy must be retained for the file. If a social worker has difficulty serving documents or is unable to serve them, the social worker must document all attempts to serve the documents, and consult with a manager or regional director to determine appropriate next steps. The regional director may wish to consult with their legal counsel;
- If the order is granted, the social worker must provide the appropriate person(s) a copy of the order;
- The provincial director shall be notified of the outcome of all court proceedings and provided with a copy of the temporary order; and,
- The social worker shall inform the adult of their right to legal counsel and provide appropriate assistance to the adult in applying for and obtaining legal counsel.

A temporary order will expire after 30 days unless the order is extended or terminated. A temporary order may be extended to complete any outstanding components of an investigation; continue to protect an adult and/or their property during an investigation; or to protect an adult and/or their property while awaiting a declaration hearing. The social worker must consult with their manager and director to prepare the application to extend the order. The application for extension must follow the procedures used to obtain the temporary order. When preparing an application to extend the order, the regional director should ensure that the application is filed and heard prior to the temporary order expiring. While it is not preferred, it is possible that an application to extend will not be granted before the temporary order expires. The regional director may wish to contemplate and plan for same.

Adult Protection Act Provincial Policy Manual	
Section 2: Adult in need of protective intervention	Subsection 2.8: Action Following Investigation
Effective Date: December 15, 2022	Revised: September 27, 2023

Statutory Provision

23. (1) Where a director requires that an investigation be completed under section 14, the investigation shall be completed and the investigator shall submit an investigation report to the director, in the form prescribed by the provincial director, not later than 30 days after the direction to complete the investigation is made, unless the time period for completing the investigation is extended under subsection (2).
- (2) A director may apply to the court for an extension of the time period referred to in subsection (1), and the court may order that the time period be extended for the period that the court considers necessary on the terms and conditions that the court considers appropriate.
- (3) Where, following an investigation, a director believes that an adult is an adult in need of protective intervention, the director
- (a) shall
 - (i) report that belief to the provincial director, and
 - (ii) prepare a service plan for that adult based on criteria set by the minister; and
 - (b) may
 - (i) report the matter to the police, or
 - (ii) provide or arrange for support services consistent with the service plan prepared under paragraph (a).
- (4) A director shall, not later than 10 days after the completion of an investigation under subsection (1) or within such other period as may be directed in writing by the provincial director, submit the evaluation under section 13, the investigation report, and the service plan required under subparagraph (3)(a)(ii) to the provincial director.

Policy

Responsibilities of the Regional Director

An investigation shall be completed and an investigation report shall be submitted to the regional director not later than 30 days after the direction to complete the investigation is made. The investigation report shall be completed using the Adult Protection Investigation form (see appendix J) and shall provide an overview of the investigation as well as formulate a conclusion as to whether the adult is in need of protective intervention and a recommendation regarding appropriate next steps. Where appropriate, these recommendations will include whether an order should be made under section 24, and what form of order would be in the best interests of the affected adult.

Where it appears that the investigation cannot be completed within the timeframe provided, a director may apply to the court for an extension of the investigation if required, and the timeframe for the completion of the investigation report will coincide with the extension of the investigation.

An investigation report must be submitted to the provincial director not later than ten days following the completion of the investigation, regardless of the outcome, but in appropriate circumstances, it may be required within a time period identified by the provincial director.

Where the investigation has determined that the provision of professional and supportive services will not eliminate the risk associated with the alleged abuse, neglect and/or self-neglect, and all reasonable options to mitigate the risk(s) have been exhausted, a regional director must report to the provincial director that an adult is in need of protective intervention and consult regarding next steps. The regional director must also designate a social worker to complete a service plan stating details of the services required to mitigate the risk and 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 must be appended to the investigation report.

In some situations criminal activity may be suspected and it may be appropriate for a regional director to report the matter to the police in accordance to policy 3.3.2 (Confidentiality).

If the risk to the adult cannot be mitigated at any time while the adult is awaiting a hearing for declaration, a temporary order may be sought by the regional director in accordance with policy 2.7 (Temporary Order).

Responsibilities of Provincial Director

The provincial director holds the statutory responsibility to determine whether to apply to the court for an order to have an adult declared in need of protective intervention under section 24 of the Act, and to determine the specific order(s) under section 24 that are in the best interest of an adult. The provincial director may require that the investigation

report and service plan be provided on an expedited basis (in less than ten days) to support their decision-making. In making a decision whether or not to proceed with an application for declaration, the provincial director may request additional information and documentation from the provincial health authority.

When the provincial director has made the decision to make an application to court for a declaration, the regional director and social worker shall provide such assistance as the provincial director deems appropriate.

Procedure

Extending an Investigation Under Section 23(2)

An investigation shall be completed not later than 30 days after the direction to complete the investigation is given. If the social worker believes that an extension of the time to complete the investigation is required:

- The social worker must consult with their manager and regional director to determine whether to proceed with an application for an extension. In determining whether an application should be made to court to extend an investigation, consideration should be given to the following:
 - Whether alternative efforts can be made to conclude the investigation in the allotted time.
 - Whether the outstanding elements of the investigation are needed to conclude the investigation.
 - How long of an extension will be required.
 - Any other factors that may impact the court's determination of whether the extension is reasonable and necessary in the circumstances.
- Where directed, the social worker will prepare the application for an extension in the form provided. The application will outline:
 - information regarding the level of risk the adult is experiencing, including indicators of abuse, neglect and/or self-neglect;
 - information relevant to the adult's ability to understand and/or appreciate the specific area(s) of risk;
 - details of the investigation to date;
 - the reasons why the extension is needed; and,
 - the plan to complete the investigation, should an extension be granted.
- The social worker will ensure that the application is filed with the court, and request it be heard on a timely basis.
- A judge will review the application and determine whether to make an order to extend the investigation. A judge may place terms and conditions on the order.
- If the order is granted, place a copy of the order on the adult's file and continue the investigation in accordance to the terms and conditions outlined in the order.
- In the event the order is not granted, the social worker shall conclude the investigation as required within the 30 day time frame.

Completing the Investigation Report

An investigation report (see appendix J for the Investigation Report form) must be submitted to the regional director not later than 30 days after the direction to complete the investigation is given. Unless otherwise directed by the provincial director, a copy of the report must also be sent to the provincial director not later than ten days following the completion of the investigation.

The report must:

- summarize the report and evaluation;
- provide an overview of the investigation interventions;
- include collateral information to support findings (such as medical reports, occupational therapy reports and/or historical information from neighbours and friends);
- describe the risk factors and the adult's capacity to understand or appreciate the current level of risk (a copy of a formal capacity assessment report must accompany the investigation report, if applicable);
- include a clinical analysis of the facts; and,
- highlight the recommendations needed to minimize risk and support the adult who may be in need of protective intervention.

If an application for declaration is being recommended this report must:

- explain the reasons supporting the belief the adult should be declared in need of protective intervention;
- include the types of orders that are recommended, including terms and conditions that may apply; and,
- include a service plan.

The regional director may also report to police when criminal activity is suspected in accordance to policy 3.3.2 (Confidentiality). If the adult's life or health is in imminent danger, an emergency intervention can occur (see policy 2.11 of the manual for details). If a declaration application is made following an investigation and the adult is at risk while awaiting a hearing for declaration, a temporary order may be sought by the regional director in accordance with policy 2.7 (Temporary Order).

Adult Protection Act Provincial Policy Manual	
Section 2: Adult in need of protective intervention	Subsection 2.9: Application for Declaration
Effective Date: December 15, 2022	Revised: September 27, 2023

Statutory Provision

24. (1) Where the provincial director receives a report under section 23 indicating that an adult is believed by a director to be an adult in need of protective intervention, the provincial director may apply to the court for a declaration that the adult is an adult in need of protective intervention.
- (2) An application under this section shall include a capacity assessment.
- (3) A hearing under this section shall be held within 30 days of the filing of the application under subsection (1).
- (4) Notice of the date, time and place of a hearing under this section shall be served within 10 days after issuing the application or at least 10 days prior to the date set for the hearing, whichever occurs first, on
- (a) the adult who is the subject of the application;
 - (b) a person with whom the adult who is the subject of the application resides, where the director considers it appropriate;
 - (c) the next of kin of the adult who is the subject of the application, and where the next of kin is determined to be the children or siblings of the adult, reasonable efforts shall be made to notify all those children or siblings;
 - (d) the adult's spokesperson, where a spokesperson has been previously identified by the adult or where the provincial director considers it appropriate;
 - (e) a person from whom support is sought, where the application seeks payment of support from a spouse or co-habiting partner of the adult; and
 - (f) a person against whom an order under subsection 25(9) is sought.
- (5) Where the provincial director believes on reasonable grounds that providing notice under subsection (4) would put the adult who is the subject of the application or the adult's real or personal property, including financial assets, at risk, the provincial director may make an application, without notice to any other party, to the court to dispense with the requirement for notice and the court may make an order the court considers appropriate in the circumstances.

- (6) Not later than 5 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.
- (7) Not later than 2 days before the hearing under this section, the persons to whom a copy of a plan has been given under subsection (6) may respond to the plan and file an alternate written plan with the court and provide a copy to the provincial director.
- (8) 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 if the adult so desires.
- (9) Following a hearing under this section, a judge may make an order under section 25.
- (10) The onus of proving the adult is an adult in need of protective intervention is on the provincial director.

Policy

The provincial director may make an application to court for a declaration that an adult is in need of protective intervention. A formal capacity assessment must be completed in accordance with policy 2.3 (Investigation), the regulations and the Formal Interdisciplinary Capacity Assessment Guidelines (see appendix T). The formal capacity assessment must accompany the application for declaration and indicate the area(s) where it is alleged that the adult lacks capacity.

Prior to seeking the declaration application, the provincial director will review the investigation report, and consult as needed with the regional director. The provincial director will determine the type of order that is required. The type of order requested will depend on the needs of the adult, the areas(s) where the adult lacks capacity, the area(s) of risk and the recommendations highlighted in the investigation report and service plan.

The Act contemplates that a court hearing will be held within 30 days of filing the application. Notice of the date, time and place of a hearing must be served within ten days after issuing the application or at least ten days prior to the date set for the hearing.

A service plan outlining the services and interventions required to reduce risk for the adult in need of protective intervention must be filed with the court no later than five 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 or file an alternate plan with the court no later than two days before the scheduled hearing.

All individuals who receive notice of the court hearing must also receive the service plan.

It is the responsibility of the provincial director to prove that an adult is in need of protective intervention and to substantiate the type of order requested. The provincial director will coordinate with their legal counsel to present the evidence required to meet this burden of proof. This may include, but is not limited to, obtaining affidavits from the investigating social worker and/or the regional director, calling the investigating social worker and/or regional director as witnesses in a hearing, as well as calling other witnesses determined to be relevant to the matter (members of the capacity assessment team, service providers, etc.).

Procedure

The provincial director will review all of the available information and assessments to determine whether to file an application for declaration. As part of developing the application, the provincial director will determine the type of order that will be required. In making this determination, the provincial director will consult with the regional director. It may be appropriate that more than one order is sought, depending on the circumstances. The provincial director will notify the regional director where the provincial director seeks a declaration order that seeks a mandatory role for the regional director.

Components of the declaration order may include:

Place under regional director or provincial director supervision: A supervision order may be sought where an adult is or may be in need of protective intervention, is refusing supportive services and the risk can be mitigated without removing the adult from their living arrangement. For example, supervision by a director or provincial director may be required where an adult remains living in the community but requires ongoing monitoring and support to mitigate the risk(s). The application for a supervision order should outline the specific authority requested under the order (e.g., right of access to the adult's home, right to access information about the adult's engagement with services, etc.). Terms and conditions may be sought to direct the adult to participate in a service under the monitoring of a director or provincial director.

Reside in a place identified by the provincial director: An order may be required to place an adult in a residence identified by the provincial director. This could include a long-term care facility or a supervised living arrangement. The specific terms and conditions requested must be included in the application, including but not limited to the type of residence, services to be provided and any reasonable measures required to facilitate the placement.

Decision-making order: The provincial director, a regional director or another person may be authorized to make decisions on behalf of the adult in the particular area(s) where the adult is determined to lack capacity, including decisions related to the adult's health care, physical, emotional, psychological, financial, legal, residential or social needs.

This type of order may be pursued where an adult appears to lack capacity in a particular area or areas and decision-making authority by the provincial director, regional director or another person is required to mitigate the risk(s) of abuse, neglect and/or self-neglect. This type of order will be considered only if all less intrusive measures are not adequate to ensure the protection of the adult.

Order requiring payment of a pension or support: The adult who is the subject of a declaration order may be residing elsewhere or be in the custody of a director or provincial director, but still have an entitlement to financial support. An order may be needed requiring the payment of support by a spouse or co-habiting partner of the adult declared to be in need of protective intervention.

In some instances an order may also be required that is directed towards a person who is the source of abuse and/or neglect. This can include:

Stop living and stay away from the premises: An order may be needed requiring that the source of abuse and/or neglect stop living and/or stay away from the premises where the adult in need of protective intervention lives. This order cannot be sought if the source of abuse and/or neglect is the owner or lessee of the premises.

Not visit, communicate with, harass or interfere: An order may be sought that prohibits a source of abuse and/or neglect from visiting or communicating with the adult in need of protective intervention.

Cease all contact and have no further involvement in the adult's affairs, business dealings or estate: An order may be sought prohibiting the source of abuse and/or neglect from being involved in the adult's financial affairs.

Limit contact and communication: An order may be sought limiting contact and communication with the adult in need of protective intervention with terms and conditions. Specific terms and conditions regarding contact and communication may be sought to mitigate the risk of abuse and/or neglect, but maintain a form of supervised contact and communication between the adult and the alleged source of abuse and/or neglect.

Application for Declaration (Section 24)

The provincial director may consult with the regional director in determining the type of order required. The provincial director will prepare the application for the declaration, but may request the assistance of the regional director regarding information to be included in the Originating Application and Affidavit.

The provincial health authority will advise the adult of the right to legal counsel and provide appropriate assistance in accordance to policy 1.3 (Presumption and Right to be Heard).

Within ten days after issuing the application or at least ten days prior to the date set for the hearing, the provincial director will provide notice of the date, time and place of the hearing to:

- the adult who is the subject of the application;
- a person with whom the adult resides (where the director considers it appropriate);
- the next of kin of the adult, and where the next of kin is determined to be the children or siblings of the adult, reasonable efforts shall be made to notify all those children or siblings;
- the adult's spokesperson, where a spokesperson has been previously identified by the adult or where the director considers it appropriate;
- a person from whom payment of support is sought (only required if this order is being sought); and,
- a person against whom a prohibit contact order is sought (only required if this order is being sought).

If the provincial director believes on reasonable grounds that providing notice to any of the above will put the adult and/or their assets at-risk, the provincial director can request to dispense with the notice requirement in the application; and, not later than five days before the hearing, file the service plan with the court and provide a copy to all persons who received notice of the application. The provincial director may request the assistance of the regional director in filing the service plan and providing copies to the appropriate parties.

Where the provincial health authority assists in facilitating service on an adult, the staff who facilitated the service will execute an affidavit of service prepared by the provincial director's office in consultation with the regional director.

Following the court hearing, the provincial director will ensure that the relevant parties are aware of any obligations they may have under the terms of the court order.

Adult Protection Act Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.10: Order of Court
Effective Date: December 15, 2022	Revised:

Statutory Provisions

25. (1) On hearing an application under section 24, a judge may order that an adult lacks capacity with respect to one or more of their health care, physical, emotional, psychological, financial, legal, residential or social needs and is an adult in need of protective intervention.
- (2) Where a judge makes an order under subsection (1), the judge shall also make one or more of the following orders:
- (a) an order that the adult be placed under the supervision of the provincial director or a director, on the terms and conditions set out in the order;
 - (b) an order that the adult reside in a place identified by the provincial director, on the terms and conditions set out in the order;
 - (c) an order that the provincial director, director or another person identified in the order is authorized to make decisions on behalf of the adult with respect to the area in which the adult has been determined to lack capacity, on the terms and conditions set out in the order; and,
 - (d) an order 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.
- (3) An order made under subsection (1), subsection (2) or subsection (9) may be for an indefinite duration, or for such other duration as the court considers appropriate, and may be subject to review by the court on those terms and conditions that the court considers appropriate.
- (4) An order made under paragraph (2)(b) shall not contain conditions which apply to the provincial director, a director, a social worker, an authority or the department.
- (5) Notwithstanding subsection (4), an order made under paragraph (2)(b) may contain conditions applying to the provincial director, a director, a social worker, an authority or the department where the provincial director, a director, a social worker, an authority or the department agrees and consents to those conditions.
- (6) 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
 - (b) 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 to be 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.
- (7) The order under subsection (6) is authority to the person by whom the pension or other income is payable to make the payment 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.
- (8) For the purpose of subsections (6) and (7), "income" includes pension income, savings and other assets.
- (9) 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;
 - (c) cease all contact or association with the adult in need of protective intervention and have no further involvement in the adult's affairs, business dealings or estate; or
 - (d) limit contact, association or communication with the adult in need of protection intervention on the terms and conditions set out in the order.
- (10) Notwithstanding paragraph (2)(d) or subsection (9), a judge shall not make an order under paragraph 2(d) or subsection (9) unless the person against whom the order is sought has been given notice of the application and an opportunity to make submissions, or consents to the order.
- (11) 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.
- (12) Where an adult has been declared an adult in need of protective intervention and has been declared to lack capacity with respect to their financial needs,

the provincial director may send a notice to the public trustee in accordance with section 22.1 of the *Mentally Disabled Persons Estates Act*.

Policy

Following the hearing, a judge may order that an adult lacks capacity with respect to one or more of their health care, physical, emotional, psychological, financial, legal, residential or social needs and is an adult in need of protective intervention, which will be referenced as the declaration. If the judge makes a declaration, then the judge **must** make a further order about how decision-making will be undertaken for the adult.

After making a declaration about the adult, the judge has to make one or more of the orders under section 25(2) and each have different kinds of effects and consequences under the Act. See policy 2.9 (Application for Declaration) for an outline of the types of orders that can be made.

All of the above orders may be for an indefinite duration or a duration the court considers appropriate. The orders may be subject to further court review and/or any other review requirements the court considers appropriate.

If the adult is declared to be in need of protective intervention, has been determined to lack capacity in respect to their financial needs and no other suitable arrangements have been made for the management of their real or personal property, the provincial director will notify the public trustee who will manage the estate of the adult.

Where there is a material change in the circumstances of an adult that has been declared to be in need of protective intervention, a person may make application to court to vary or terminate the declaration order or to make a new order. An updated service plan shall be submitted to the court with an application to vary or terminate the order.

Procedure

When an adult is declared by a judge to be in need of protective intervention, the adult has effectively been deemed to lack capacity to mitigate the risk of the abuse, neglect or self-neglect. The adult's lack of capacity is decision-specific meaning the adult may lack capacity in some areas but not others. During a formal capacity assessment, the specific capacity question(s) about the risk area(s) must be developed for the interdisciplinary team to assess. The service plan to mitigate risk must be developed to address the specific area(s) where the adult lacks capacity in accordance with policy 3.1 (Service Plan and Review Committee).

When a judge declares an adult to be in need of protective intervention and orders that the adult lacks capacity with respect to one or more decision-making areas, that judge must issue an order outlining the terms and conditions that will govern the declaration order. The adult will participate in the decision-making process to the greatest extent possible. The options may include:

- That the adult be placed under the supervision of the provincial director or a director, on the terms and conditions set out in the order.
- That the adult reside in a place identified by the provincial director, on the terms and conditions set out in the order.
- That the provincial director, director or another person identified in the order is authorized to make decisions on behalf of the adult with respect to the area(s) in which the adult has been determined to lack capacity, on the terms and conditions set out in the order.
- That the payment of support by a spouse or co-habiting partner of a person declared to be an adult in need of protective intervention is required.
- That the adult's income (including pension income, savings and other assets) and expenses are to be managed in the manner outlined in the order.
- That any pension or other income be paid to either the adult or caregiver. Such an order will provide authority to the issuer (e.g., Old Age Security, Income Support) of the income and they must comply.
- That the source of abuse/neglect 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.
- That the source of abuse/neglect may be ordered to have no further involvement with the adult's affairs, business dealings, or estate.
- That the source of abuse/neglect be ordered to not visit, communicate with, harass, or interfere with the adult in need of protective intervention.
- That the source of abuse/neglect be ordered to limit contact, association or communication with the adult in need of protective intervention on the terms and conditions set out in the order; and/or,
- Other terms and conditions as determined by the judge.

The provincial director will advise appropriate parties of the type of order that was made after a declaration application, and outline any responsibilities of the regional director or their staff in accordance with the order.

If a declaration order is granted, the adult's service plan must be reviewed to determine whether it needs to be updated and include all terms and conditions outlined in the declaration order. The most supportive and least restrictive intervention to mitigate the risk(s) 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 and the adult 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 order.

Adult Protection Act Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.11: Emergency Intervention
Effective Date: December 15, 2022	Revised: September 27, 2023

Statutory Provisions

26. (1) A director or a social worker shall file an application with the court for a warrant to remove an adult where the director or social worker believes
- (a) that the adult is or may be an adult in need of protective intervention; and
 - (b) a less intrusive course of action that would adequately protect the adult is not available.
- (2) A judge may issue a warrant authorizing a director or social worker to enter a premises or vehicle or board a vessel or aircraft, by force if necessary, to remove an adult where the judge is satisfied on the basis of the director's or social worker's sworn information that there are reasonable grounds to believe that
- (a) the adult is or may be an adult in need of protective intervention; and
 - (b) a less intrusive course of action that would adequately protect the adult is not available.
- (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 the premises in which the adult is living under this section, the adult may be moved to a place determined to be suitable by the director or social worker.
- (9) Where an adult is removed from the premises in which the adult is living to another place under this section and there are reasonable grounds to believe that there is a risk of loss of or damage to real or personal property as a result of the adult's inability to reside in or deal with the property, and that no other suitable arrangements have been or are being made for the purpose, the director or social worker
- (a) shall take reasonable steps to prevent or mitigate the loss or damage; and
 - (b) may enter premises which were the adult's place of residence or usual place of residence immediately before the adult's removal under this section at reasonable times, 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) A director shall, within 2 days of an adult being removed under the authority of a warrant issued under subsection (2) or under the authority of subsection (3), make an application to a court under section 20 or section 21 and the court shall hear that application within 2 days of the making of the application.

Policy

Emergency Intervention with a Warrant or Tele-warrant

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.

If it is believed that an adult is or may be an adult in need of protective intervention, is unable to manage their affairs or assets and there is an immediate danger of substantial damage or loss to the adult's finances and/or assets, review the provisions regarding an application for a temporary order (policy 2.7) and/or emergency financial intervention (policy 2.12).

Prior to considering application for a warrant, consideration must be given to seeking a temporary order in accordance with sections 20 – 22 and policy 2.7 (Temporary Order). This will include consultation regarding having a judge hear the application for a temporary order on an urgent basis, with or without notice. An application for a temporary order is less intrusive and in most instances, a temporary order will provide the authority to ensure the safety of the adult during an investigation or other application processes. Documentation regarding the rationale for not proceeding with a temporary order shall be made on the adult protection file.

Where it has been determined that a warrant to remove the adult is required, the regional director must make application to seek a warrant in accordance with the procedures below.

When completing an emergency intervention, the adult and the person from whose premises the adult is removed (if applicable) shall receive a copy of the warrant or tele-warrant. The adult will be moved to a place determined to be suitable by a regional director or social worker. Temporary emergency placement may be necessary in a health care facility or an alternate community residence. Emergency medical treatment may be needed at a hospital. A copy of the warrant or tele-warrant shall be provided to the provincial director office following an emergency removal.

Emergency Removal Without a Warrant or Tele-warrant

If prior to receiving the warrant, the regional director reasonably believes that the risk to the adult's health and safety is immediate, the Act authorizes an emergency removal without a warrant.

Emergency removal without a warrant should only be considered in cases where a warrant is being sought on an urgent basis and there is a reasonable belief that there would be an immediate risk to the adult's life and/or health if no action were taken during the time required to obtain a warrant.

File documentation should identify the rationale for using this authority and why the time to obtain a warrant was not sufficient to ensure the safety of the adult. Provincial office must be notified of emergency removals without a warrant as soon as possible after the intervention has occurred.

After a Removal

Following a section 26 emergency intervention, either with a warrant or tele-warrant, or without a warrant, the regional director must apply to the court for a temporary order within two days in accordance with section 26(11). The court must hear the application within two days after the day the application was filed.

The application for temporary order should set out why a temporary order is needed and consider all of the types of temporary orders needed to ensure the safety of the adult or to complete the investigation. See policy 2.7 (Temporary Orders).

During the section 26 emergency intervention, the social worker must advise the adult of their right to legal counsel and provide appropriate assistance in applying for and obtaining counsel in accordance to policy 1.3 (Presumption and Right to be Heard).

When the adult has been removed from their premises, if there are reasonable grounds to believe that there is a risk of loss or damage to the adult's real or personal property due to the adult's inability to reside in or deal with the property temporarily, the regional director or social worker shall take reasonable steps to prevent or mitigate the loss or damage.

The regional director or social worker may enter the adult's residence at reasonable times to deal with the adult's property to prevent or mitigate loss or damage. If no other suitable arrangements have been made for the protection of the adult's real or personal property, the temporary order application may request the public trustee or another appropriate person become guardian of the adult's real or personal property, including financial assets.

Procedure

The process for completing an emergency intervention is as follows:

- The social worker must review the results of the initial evaluation as outlined on the Adult Protection Evaluation form (see appendix G). 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 may also be available, including medical reports and commentary from neighbours and/or friends.
- The social worker will consult with their manager and regional director, and the regional director will make a decision whether they believe there are sufficient grounds to seek a warrant or tele-warrant. Consideration must also be given to where the adult will be taken, if a warrant or tele-warrant is granted, and any other logistical issues (timing and location of execution of the warrant or tele-warrant, requirements for assistance from peace officers).
- The decision must be informed by the level of risk that indicates there is an immediate risk to the adult's health and safety and any less intrusive form of support (e.g., home support services) will not mitigate that risk.
- The following forms will be completed in order to obtain a warrant or tele-warrant (see appendix L):
 - Information to Obtain a Warrant to Remove (or Tele-warrant to Remove); and,
 - Warrant to Remove (or Tele-warrant to Remove).
- The information to obtain a warrant to remove should identify the specific interventions and actions to be undertaken under the authority of the warrant.

- Arrangements should be sought through the court clerk to have the application heard during regular court hours. If after hours or there is no access to court, contact must be made with the on call judge to arrange for the application for a warrant or tele-warrant to be considered.
- If the warrant is granted, the social worker may request that a peace officer or other emergency responder accompany them to the adult's home to assist with the removal of the adult to a place of safety.
- Provide the adult a copy of the warrant and explain to the adult what is happening and why the action is being taken. A copy of the warrant must be provided to the adult and an explanation of the reasons for the removal. The adult must also be advised of their right to legal counsel at this time
- Provide the person from whose premises the adult is removed a copy of the warrant, if applicable. 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.
- If an adult requires emergency medical intervention while under a warrant, the social worker should consider whether they need to accompany the adult 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**.
- During an investigation, should the adult become certified under the **Mental Health Care and Treatment Act**, interventions under the **Adult Protection Act** must cease if and until the adult is no longer certified, at which time further engagement under the Act may be appropriate. If the adult is not certified, but remains in a hospital facility, they remain under the **Adult Protection Act**, and an application for temporary order and ongoing investigation is required.
- The social worker must arrange a temporary placement such as a health care facility, personal care home, independent living arrangement or alternate family care home if necessary.
- The social worker must secure any 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, as well as ensuring doors and windows are secured, heat is appropriately regulated and any valuables are secured. The social worker, accompanied by a witness, must record all removed items and place in a sealed envelope. Photographs of items may be taken and must be maintained in confidence under the Act. The items removed must be placed in an envelope. The signature of the social worker 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 provincial health authority. Documentation must reflect the actions taken, as well as the storage location of the valuables for future reference. The director should approve and be aware of the location where any valuables are stored and ensure that access to the valuables is secure.
- The regional director must notify the provincial director of the removal and provide a copy of the warrant/tele-warrant to the provincial director at the earliest opportunity.

Following the removal of an adult with a warrant, tele-warrant or after an emergency removal without a warrant, an application for a temporary order must be made within two days. The social worker must provide the adult appropriate assistance in applying for and obtaining legal counsel in accordance to policy 1.3 (Presumption and Right to be Heard).

The social worker must consult with their manager and regional director in regard to what interventions are needed and determine if one or more temporary orders should be sought. Policy 2.7 (Temporary Order – Assessment, Residency, and Supervision, Financial and General) outlines the detailed considerations and procedures for seeking a temporary order. The hearing date for an application for temporary order following an emergency intervention must be within two days of filing the application.

Adult Protection Act Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.12: Emergency Intervention – Financial Affairs
Effective Date: December 15, 2022	Revised: September 27, 2023

Statutory Provisions

27. (1) The public trustee may, at the written request of the provincial director, intervene in a manner to the extent that may be demonstrably necessary to temporarily prevent or contain loss or damage to an adult's real or personal property, including financial assets, where the provincial director reasonably believes that an urgent situation exists in which a person who is or may be an adult in need of protective intervention but has not yet been declared as such
- (a) is unable to manage their real or personal property, including financial assets; and
 - (b) there is immediate danger of substantial damage to or substantial loss of the adult's real or personal property, including financial assets.
- (2) Where the public trustee takes the action referred to in subsection (1), the public trustee shall, within 3 days of taking that action, apply to a court and the court shall hear that application within 5 days of the making of the application.
- (3) On hearing an application under subsection (2), a judge may
- (a) make an order confirming any actions of the public trustee taken under subsection (1);
 - (b) make an order appointing the public trustee as guardian for the real or personal property, including financial assets, of the adult for the period of time the judge considers necessary; and
 - (c) make any other order that the judge considers necessary and appropriate to prevent or contain loss or damage to the adult's real or personal property, including financial assets.

Policy

Emergency intervention in financial affairs may be required where it is believed that an adult who is or may be in need of protective intervention is unable to manage their affairs or assets and there is an immediate danger of substantial damage or loss to the adult's real or personal property, including financial assets.

This intervention is not to be used in place of seeking a temporary order in accordance with section 21 and policy 2.7 (Temporary Order – Assessment, Residency, Supervision, Financial and General).

This type of application is an extraordinary step that must only be considered where less intrusive measures will not address the situation and a temporary order cannot be obtained in time to provide the required protection of the adult's assets.

Following an evaluation or during the course of investigation, the regional director must have reason to believe that the adult lacks capacity, that a less intrusive course of action is not available, and that without an intervention the adult may suffer a loss of property or assets. There must be evidence to support that without the intervention the adult's real or personal property is reasonably likely to be considerably compromised, deteriorated or depleted in a short period of time. Less intrusive options, such as involving a trusted family member or support person to assist the adult should be paramount.

Where less intrusive measures are not sufficient, the regional director must report their concerns to the provincial director.

The provincial director will determine whether to engage the public trustee in the matter, and whether that will occur in accordance with section 27. Where the public trustee intervenes, the social worker and regional director shall provide all required documentation to the public trustee. This may include, but is not limited to, swearing or affirming an affidavit or other documents that may be held by the social worker or regional director.

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 G). This must include information obtained from interviewing the report source, interviewing and/or observing the adult who may be in need of protective intervention, reviewing financial records and evaluating the level of risk. Information from collateral sources might also be available, including medical reports, information from financial institutions and commentary from neighbours and/or friends;
- review policy 3.3.1 (Confidentiality) if criminal activity is suspected, and following consultation with a coordinator/manager, the regional director will determine whether a police referral is appropriate;
- prepare a report providing the following:
 - information that the adult is or may be an adult in need of protective intervention;
 - information that the adult is unable to manage their affairs or assets;
 - why the criteria in section 27 is met in terms of the immediacy and significance of the loss of assets or property; and,
 - information outlining the reasons a less intrusive intervention is not available or sufficient to address the situation;

- submit the report to the provincial director.

If determined to be necessary, the public trustee will take action to protect the adult's real or personal property and the social worker and regional director will provide information and documentation to support any application made by the public trustee.

Adult Protection Act Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.13: Appeal
Effective Date: December 15, 2022	Revised: September 27, 2023

Statutory Provision

28. (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 from the decision granting or refusing the order
- (a) to the Supreme Court, where the judge is a judge of the Provincial Court; and
 - (b) to the Court of Appeal, where the judge is a judge of the Supreme Court.
- (2) The provisions of the **Judicature Act** and the **Rules of the Supreme Court, 1986** shall govern the proceedings on an appeal under subsection (1).
- (3) The Supreme Court 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. A person who has been significantly impacted by an order, or a refusal to make an order, may also appeal the decision.

Where a person identifies to the provincial health authority that they wish to appeal the decision of a judge made under this Act, staff may advise the adult of their right to legal counsel in accordance to policy 1.3 (Presumption and Right to be Heard).

Staff must advise their manager/coordinator and director, or the provincial director if appropriate, about an appeal inquiry. The provincial director must be notified if the order under appeal is a declaration order, or an application made by the provincial director.

An appeal is commenced by the filing of a notice of appeal. Where staff receive a document that has to be filed with a court, they must notify their manager/coordinator and director as well as the provincial director where appropriate. The provincial director must be immediately notified if the appeal involves a declaration order or another application that was made by the provincial director.

Where an appeal concerns a section 25 declaration order, the provincial director will collaborate with the regional director following consultation with legal counsel for the provincial director.

The appeal must be heard by a judge of the Supreme Court or the Court of Appeal, depending on the court where the initial order was made. The process and forms to be used are governed by the **Judicature Act** and the **Rules of the Supreme Court, 1986**. Typically, this process will not involve the calling of witnesses, and the legal proceedings will be done by legal counsel on behalf of the parties.

When the appeal is heard, the court hearing the appeal can make one of the decisions established in section 28(3):

- confirm an existing order, meaning the original order remains in full force and effect without change;
- set aside an existing order, meaning the original order is void or null and no longer has any effect, as if it had not been made;
- make a new order itself, as long as the order is one that was available to the original judge under the Act; or,
- direct the original judge to make an order that the appeal court determines is required by the circumstances of the case.

Adult Protection Act Provincial Policy Manual	
Section 2: Adult in Need of Protective Intervention	Subsection 2.14: Proceedings
Effective Date: December 15, 2022	Revised:

Statutory Provision

29. (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 recorded;
- (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

Legal proceedings under the **Adult Protection Act** are held in the Supreme Court of Newfoundland and Labrador, Family Division in St. John's and Corner Brook. Proceedings are held in the Provincial Court in all other areas of the province that are not covered by the Supreme Court Family Division. Proceedings under the Act are considered to be civil in nature (as opposed to criminal). This means that the level of

evidence needed for a judge to make a finding is based on a civil standard of proof referred to as **on the balance of probabilities** (unlike criminal proceedings, which is based on the standard **beyond a reasonable doubt**, a very high threshold). This is a much lower threshold of proof, and legal counsel, as well as judges, apply this in how they present evidence and make decisions.

Court matters under the Act are held in private (closed) unless otherwise ordered by the judge. The matters considered in adult protection are very sensitive and personal to the adults affected, and are kept confidential unless the court believes there is a reason to do otherwise. This means that persons who are not parties to a matter cannot sit in the courtroom without special permission from the judge. This may include family members of the adult, spokespersons and/or others who may receive notice of the application. The judge has the authority to decide who may attend the hearing. Where persons appear at court and want to attend the hearing but are not parties, the social worker should ensure that legal counsel are aware of their identity so that the judge is made aware of any persons who are seeking to attend court. If there is any reason that a social worker would have concern if the person did attend the hearing, including a person who may upset or distress the adult, or the person will be a witness in the hearing, they should bring this information to the attention of legal counsel.

A proceeding under the Act may be conducted by means of teleconference, video conference, or other means of telecommunication, as well as in person. The court will generally manage whether the hearing will be in person, or in another format based on requests from parties, the availability of judges and other external factors. If there is a reason that one or more parties are unable to attend in person, the social worker must bring this to the attention of legal counsel. If there is a need for translation or alternative supports for communication, this should be identified to legal counsel to ensure appropriate arrangements are made.

The judge is authorized to make an adult protection hearing more informal than a traditional court case. These hearings centre around vulnerable adults, whose best interests are at the heart of the matters being decided, and the judge has permission under the Act to arrange the hearing differently if necessary. This could include arranging the courtroom in a different way, permitting witnesses to give evidence in a different order than may be typical, or any other measures that the judge determines are appropriate.

The judge can also dispense with or shorten the time for serving a notice in accordance with the Act. Serving notice to persons identified in the Act is essential to ensuring they are aware of and have an ability to participate in the hearing. In some cases, notice may not be appropriate or be able to be effected. If a social worker has difficulty serving documents or is unable to serve them, the social worker must document all attempts to serve the documents, and consult to determine appropriate next steps, which may include addressing issues at the hearing.

During the course of a hearing, parties will present evidence. It is based on this evidence that the judge will be able to make the findings and decisions they need to make in accordance with the Act.

Adult Protection Act Provincial Policy Manual	
Section 3: General	Subsection 3.1: Service Plan and Review Committee
Effective Date: December 15, 2022	Revised: September 27, 2023

Statutory Provisions

Service Plan

30. (1) A director or the director's designate shall prepare a service plan in accordance with the regulations for every adult who is the subject of an application under section 24 or an order under section 25.
- (2) 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 an adult in need of protective intervention has the right to participate in the development of the adult's service plan, including amendments to it.

Review Committee

31. (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 an adult 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 authorities with duties under this Act.

Policy

A written service plan shall be completed for all adults subject to a declaration application, as well as subject to a declaration order, in accordance with the regulations. The service plan shall identify the area(s) where the adult lacks capacity and contain 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 N for Service Plan form).

This service plan is first developed following an evaluation and/or investigation when the regional director is reporting to the provincial director that an adult is an adult in need of protective intervention. Efforts must be made to involve the adult and/or their support person(s) in the development of the service plan to the greatest extent possible. This

service plan must be appended to the investigation report and submitted to the provincial director not later than ten days following the completion of the investigation or within a shorter time period identified by the provincial director.

A service plan is presented to the court as part of the application for declaration and must be filed with the court not later than five days prior to a declaration hearing. Copies of the plan must be provided to all individuals that were provided notice of the hearing. The adult may file an alternate plan with the court not later than two days prior to the hearing.

Once a declaration application hearing is concluded, and an order has been made, the service plan must be reviewed to ensure that all elements of the order, including any terms and conditions of the order, are reflected and applied in the service plan. Specific orders issued by the judge following a declaration for protective intervention must be incorporated in the service plan by the social worker.

The service plan must be evaluated and reviewed by the social worker minimally every six months (see appendix O for Service Plan Review form). Whenever possible, the service plan must be reviewed in consultation with the adult and/or their support person(s). A review of the service plan is also required when there is a material change in the adult's circumstances. A material change in circumstances is a change that has a significant impact on the adult's situation. Where a service plan has been revised, consideration should be given to whether these circumstances warrant a variation or termination of the order.

In addition to the reviews noted above, service plans must undergo a review by the review committee established under section 31. The review committee is comprised of the provincial director and each of the regional directors. Other relevant persons may be asked to attend at the discretion of the review committee, for example, the public trustee and/or the adult who is the subject of the declaration order. In preparation for a consideration by the review committee, the social worker working with the adult will review the service plan and make recommendations to the review committee about possible changes to the plan.

The review committee will recommend whether the declaration is still required, the declaration remains with revisions to the service plan, or the declaration should be terminated (see appendix P Provincial Review Committee Recommendation form). If the review committee determines that a declaration should be terminated the provincial director will initiate the appropriate next steps.

Procedure

The social worker must write a service plan for an adult who may be declared in need of protection using the Service Plan form (see appendix N). The service plan must be prepared initially following an evaluation and investigation and is appended to the investigation report that is sent to the provincial director not later than ten days following an investigation or within a shorter time period identified by the provincial director. If the

investigation and declaration application result 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 regional directors, the provincial director and any others invited by the review committee must annually review the service plan of every adult declared in need of protective intervention. The social worker must complete the service plan review minimally annually using the Service Plan Review form (see Appendix O) and submit the review to the regional director prior to the annual meeting of the review committee. The service plan review will include the adult to the greatest extent possible.

In addition to the annual review, the social worker shall review the adult's service plan minimally every six months or upon a material change in circumstances.

The service plan must include:

- Date of Service Plan
- Basic Demographic Information:
 - Name
 - Address
 - Phone number
 - Age/Date of Birth
 - MCP #
 - Area(s) where adult lacks capacity and arrangements for decision-making (including any contact information)
 - Contact person (regional director)
 - Next of kin (if known)
 - Date of declaration (if applicable)
 - Date of public trustee involvement (if applicable)
 - Date of formal capacity assessment (if applicable)
- Advance Care Planning
 - Describe any advance care planning in place. This can include wills, prearranged funerals, health care directives and/or code status.
- Involvement of Adult
 - Describe efforts made to engage the adult in the development of the service plan.
 - Describe how the adult's views, preferences, wishes and/or values have been incorporated into the plan.
- Medical/Health Information:
 - Describe any medical diagnoses.
 - Describe medications.
 - Describe any other medical issues.
- Communication Aids (if applicable):

- Describe the type of assistance provided, if necessary, to support the adult's method of communication.
- Case Details:
 - Outline the abuse/neglect allegations.
 - Describe the adult's current level of risk.
 - Describe the existing formal and informal supports.
 - Provide an overview of the capacity assessment results.
- Service Needs:
 - Describe professional services needed (medicine, nursing, occupational therapy, physiotherapy, recreation, social work, speech language, etc.).
 - Describe any clinical interventions that may restrict the liberties of the adult (e.g., environmental restrictions and/or social restrictions).
 - Describe supportive services needed (assistance with activities of daily living, foot care, home support, meal preparation, 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.).
 - Describe the adult's financial arrangements and any services needed (e.g., public trustee involvement).
 - Other relevant information.
- Cultural Considerations (where appropriate):
 - Describe the arrangements proposed to facilitate the adult's connection with their culture, heritage, traditions, community, language and/or spirituality. This can include, but is not limited to:
 - maintain family and community connections by facilitating regular visitation and/or outings;
 - explore opportunities to engage in cultural activities and celebrations that are occurring in and/or organized by their family and community;
 - explore ways to preserve the adult's language (e.g., visiting their community, music, videos, recording of Elders speaking, resources that may be available).
- Recommended Safety Plan:
 - Describe the plan required to mitigate the identified risks.
 - Recommend type of living arrangement.
- Date of Court Hearing (to declare an adult in need of protective intervention, if applicable):
- Court Orders (To be updated if court order is granted):
 - Outline the court orders granted and the terms and conditions set out in the orders.
 - Section 25(2) orders can include the following:
 - placed under the supervision of the provincial director or regional director, on the terms and conditions set out in the order;

- reside in a place identified by the provincial director, on the terms and conditions set out in the order;
 - provincial director, director or another person is authorized to make decisions on behalf of the adult with respect to the area in which the adult has been determined to lack capacity, on the terms and conditions set out in the order
 - Describe any additional court orders (e.g., the role of the public trustee to manage the adult's income and expenses, section 25(9) orders).
- Date of Service Plan Review
 - The service plan review (minimally every six months and annually) will include the following:
 - 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.
 - Include the adult and/or their decision-making support person in the evaluation process with reasonable accommodations, if necessary.
 - Recommendations:
 - Provide recommendations based on the service plan review.
 - Revise services, if required, following the review to ensure the adult's care needs are adequately met.
 - Incorporate recommendations from the annual review of the provincial review committee.
 - 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: Right to Information
Effective Date: December 15, 2022	Revised:

Statutory Provision

32. (1) The provincial director, a director or a social worker has the right to information concerning an adult where the information
- (a) is relevant to one or more of the areas of capacity the adult is alleged to lack;
 - (b) is necessary to enable the provincial director, director or social worker to exercise their powers or perform their duties or functions under this Act or the regulations, including powers, duties or functions relating to assessments or the determination of whether an adult is an adult in need of protective intervention;
 - (c) is necessary to determine and inform the supports and services that may be necessary for an adult who is or may be an adult in need of protective intervention; and
 - (d) is in the custody or under the control of
 - (i) a person, or
 - (ii) a public body.
- (2) A public body or a person referred to in subsection (1) that has custody or control of information to which the provincial director, a director or a social worker is entitled under subsection (1) shall disclose that information to the provincial director, director or social worker.
- (3) Notwithstanding subsections (1) and (2), information that is subject to solicitor-client privilege is not required to be disclosed unless the information is required to be disclosed under section 12.
- (4) Notwithstanding subsections (1) and (2), a peace officer may refuse to disclose information where
- (a) the disclosure would be an offence under an Act of Parliament; or
 - (b) the disclosure would be harmful to law enforcement or could reasonably be expected to interfere with public safety, unless the information is required to be disclosed under section 12.

Policy

In accordance with section 32 of the **Adult Protection Act**, other than during the evaluation process, the provincial director, a director or a social worker has the right to information with respect to an adult under the control of a person or public body where that information is:

- relevant to one or more areas of capacity the adult is alleged to lack;
- necessary to enable the provincial director, director or social worker to perform their duties under the Act. This can include, but is not limited to, monitoring of the risk of an adult while waiting for a declaration hearing, completing service plans, and/or efforts to determine whether it is appropriate to vary or terminate an order made under the Act, including a declaration regarding capacity; and/or,
- necessary to determine and inform the supports and services for the adult who is or may be an adult in need of protective intervention. This can include consultations with service providers and/or other persons to find less intrusive means to reduce risk to the adult and/or to inform a service plan being developed or reviewed on behalf of the adult.

There are limits to the authority to seek information under this provision, including:

- A peace officer may refuse to disclose information where the disclosure would be an offence under an Act of Parliament; be harmful to law enforcement; or it is reasonably expected to interfere with public safety. This kind of information is protected by investigatory privilege in section 32(4) of the Act and this kind of information cannot be obtained from a peace officer unless the information is required to be disclosed under the duty to report provisions of the Act.
- Solicitor client information, which means information shared by a client in the course and as a function of obtaining legal advice, as well as the advice provided by the lawyer, will not be subject to disclosure, unless information is required to be disclosed under the duty to report provisions of the Act.

Information held by either a peace officer, or subject to solicitor client privilege is subject to the duty to report under section 12 of the Act.

The consent of the adult is not required to gather information in an investigation under the Act and a person or public body is compelled to cooperate with an investigation, including providing information or producing records, documents or other things in that person's possession or control, which may be relevant to the investigation.

While the consent of the adult is not needed to access information to which section 32 applies, every effort must be made to involve the adult to the greatest extent possible throughout an investigation. This may include, but is not limited to, discussing with the adult the kind of information that is being sought and who may be able to provide the information.

During the course of an investigation, a person may neglect or refuse to provide information or produce a record in accordance with section 32. If this occurs, it may be

necessary to seek an order in accordance with section 19 and policy 2.6 (Production of Documents).

Adult Protection Act Provincial Policy Manual	
Section 3: General	Subsection 3.3.1: Documentation
Effective Date: December 15, 2022	Revised: September 27, 2023

Statutory Provision

33. (1) A person employed in the administration of this Act shall comply with the documentation standards prescribed in the regulations
- (2) A person employed in the administration of this Act shall maintain confidentiality with respect to all matters that come to that person's 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 who is or may be an 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.
- (3) Information released under this section shall only be used for the purpose for which it was released.
- (4) The department or an authority is not liable for damages caused to a person as a result of the release of information under subsection (2).
- (5) Where a request is made to the department or an authority, a person shall be denied access to information in a record 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) 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.
- (6) 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.
- (7) Where a request is made to the department or an authority, 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 report under section 12; or
 - (b) there are reasonable grounds to believe that the disclosure may result in physical, emotional or financial harm to that person or another person.

Policy

All persons employed in the administration of the Act shall comply with the documentation regulations, as well as any documentation standards established by their provincial and national professional association or college and provincial health authority. This can include, but is not limited to, a director, a social worker, investigator or a professional completing a formal capacity assessment under the Act.

Documents prepared in adult protection must:

- be clear and legible;
- impartial;
- contain only essential and relevant details; and,
- include facts to support the person's professional opinion.

Adult protection information shall be documented and managed in a separate file from the clinical health file (including a chart in acute or long-term care). All adult protection clients will have an electronic and paper file established to hold relevant information. Adult protection information must be recorded on the appropriate adult protection form/template or in the Client Records Management System (CRMS). The paper file will be stored in a secure location in a separate file from the clinical health file.

In adult protection there are two types of documentation notes to consider:

- **Adult Protection Notes:** Adult protection notes provide details on the information provided to the social worker during the report, evaluation and investigation phases of the adult protection process. Adult protection notes may become key evidence in a court proceeding under the Act or as evidence in a criminal matter. Details of disclosure, adult protection interviews, consultations and decisions shall be documented at the time of contact or as soon as possible thereafter, but no later than 24 hours after the contact takes place. The time of the recording is essential to the admissibility and weight given to the social worker's testimony in court. The social worker's original handwritten adult protection notes must be maintained in the paper file after they are transcribed into CRMS.

- **Jot Notes:** During the course of contact with clients and collateral sources in the adult protection process, the social worker may also document information that is not essential for the adult protection evaluation, investigation or the hearing of an application. This could include information arranging a meeting, setting a schedule, facilitating contact, etc. In these instances, a social worker may document words or phrases to help jog their memory and assist their recall of the contact when transposing the information into adult protection documentation. Jot notes are not easily interpreted by anyone other than the author, nor would they easily facilitate understanding of what transpired during the social worker's clinical intervention. Jot notes should only be used for notes that are not relevant to the core issues in an evaluation, investigation or the hearing of an application. Jot notes will be recorded as notes within twenty-four hours in CRMS and then securely destroyed.

Emails and information received through social media containing pertinent adult protection information shall be maintained in the paper file. This information may also be maintained electronically in accordance with provincial health authority policies.

Adult protection documentation shall adhere to standard abbreviations (See appendix U) and time formats.

The closure of an adult protection file must be captured in all formats containing adult protection information. All data shall be entered in the CRMS adult protection module prior to file closure.

The provincial director will evaluate and monitor adherence to the established policies, programs and standards, in accordance with section 9(b) of the Act. This includes file audits and/or reviews for adherence to documentation standards and policies.

Procedure

The paper file will be organized chronologically and will contain the following information:

- Adult Protection Report form;
- Adult Protection Evaluation form (where applicable);
- Adult Protection Evaluation Consent form (where applicable);
- Adult Protection Formal Capacity Assessment (if required);
- Adult Protection Investigation Report (if applicable);
- Adult Protection Court Applications and Orders (if required);
- Adult Protection Court Declaration (if required);
- Notice to Public Trustee – Court Declaration (if required);
- Adult Protection Service Plan and Reviews (if required);
- Hard copy of emails and/or social media screen shots containing specific adult protection case information;
- Adult protection notes;
- Adult Protection Information Request form (if required);
- Correspondence; and,

- Reports.

The paper file will follow the Year-Month-Day format and the twelve-hour clock. The paper file and CRMS documentation will adhere to the use of standard abbreviations (see appendix U).

Emails containing pertinent adult protection information will be printed and placed on the paper file. General emails, not specific to the adult protection case, will not be placed on the adult's paper file. Emails containing attachments with confidential client information will be transmitted securely. Key components of the email will be entered and summarized in CRMS.

Where relevant adult protection information is received through social media, a screen shot of the information will be printed and placed on the adult's paper file. Dates and times of the activity must be recorded.

An adult protection CRMS file may contain the following information in accordance with the CRMS tracking user guide:

- Adult protection report information;
- Adult protection evaluation information;
- Adult protection investigation information; and,
- CRMS notes.

Jot notes will be recorded as notes within twenty-four hours in CRMS and then securely destroyed.

Adult protection notes must be transcribed on the appropriate adult protection form or in CRMS within twenty-four hours. Adult protection notes will be maintained on the paper file and may be maintained electronically in accordance with provincial health authority policies.

Adult Protection Act Provincial Policy Manual	
Section 3: General	Subsection 3.3.2: Confidentiality
Effective Date: December 15, 2022	Revised: September 27, 2023

Statutory Provision

33. (1) A person employed in the administration of this Act shall comply with the documentation standards prescribed in the regulations
- (2) A person employed in the administration of this Act shall maintain confidentiality with respect to all matters that come to that person's 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 who is or may be an 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.
- (3) Information released under this section shall only be used for the purpose for which it was released.
- (4) The department or an authority is not liable for damages caused to a person as a result of the release of information under subsection (2).
- (5) Where a request is made to the department or an authority, a person shall be denied access to information in a record 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) 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.
- (6) 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.
- (7) Where a request is made to the department or an authority, 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 report under section 12; or
 - (b) there are reasonable grounds to believe that the disclosure may result in physical, emotional or financial harm to that person or another person.

Policy

All persons employed in the administration of the **Adult Protection Act** shall maintain confidentiality in accordance with the Act and regulations at all times. This can include, but is not limited to, a social worker, investigator, or director.

Requests for the disclosure of information made by the adult or third parties shall be considered in accordance with this policy. Social workers and others with access to information held under the Act shall only disclose information where a formal request has been made or after consideration of the policies and procedures and in accordance with the Act and regulations.

Information collected in the adult protection process may be subject to other legislative provisions including, but not limited to, the **Personal Health Information Act (PHIA)** and the **Access to Information and Protection of Privacy Act, 2015 (ATIPPA)**. Prior to considering the release of any information, it must be determined whether there are any other legislative provisions that may apply to some of the information held in the adult protection file. All employees involved with the administration of the Act must be familiar with and comply with the relevant sections of the PHIA and ATIPPA (see appendix B).

Sharing or Disclosing Information During the Adult Protection Process

A social worker evaluating an allegation of abuse or neglect shall not collect, use or disclose information without the adult's consent.

During the course of an adult protection investigation or while a court proceeding is ongoing, it may be necessary to use or disclose adult protection information without the consent of the adult. Information held under the Act can only be shared or disclosed where authorized by the Act or regulations. This includes those made in accordance with section 33(2), including:

- where the disclosure is required by another Act of the province;
- 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;

- where, in the opinion of a director, the disclosure is in the best interest of the person to whom the information relates;
- where the disclosure is necessary to the performance of duties or the exercise of powers under the Act;
- 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 interest of the person to whom the information relates;
- where the disclosure is for research approved by a research ethics body; or,
- for another purpose authorized by the regulations

Where it appears section 33(2) may authorize the sharing of information, consideration must also be given to whether there are reasons to withhold some or all of the information. These factors, as outlined in section 33(5) must be considered before any disclosure of information under the Act occurs. These factors include:

- there are reasonable grounds to believe that the disclosure might result in physical or emotional harm to that person or another person;
- it is determined the disclosure could identify a confidential report source (unless the person consents or a judge orders its release); or,
- the disclosure may jeopardize an investigation under the Act or a criminal investigation.

Where it has been determined that some information requested is impacted by section 33(5), it must be determined whether a portion of the records can be severed to maintain the protection required under section 33(5), and permit the remaining records that are eligible for disclosure to be provided.

Information released under section 33(2) shall only be used for the purpose for which it was released. Those sharing information must ensure that the recipient is made aware of the authority under which the information is being shared, as well as the provisions of section 33(3).

Sharing or Disclosing Information at the Request of the Adult or a Third Party

A person has the right to request access to their information and records maintained under the Act. Other persons may also seek information in relation to work undertaken under the Act. Any such request must be made using the Adult Protection Information Request form (see appendix Q) and in accordance with the regulations and the procedures set out in this policy and/or the policies and procedures of the applicable provincial health authority.

If a person's request for information is denied, the person may make application to the Department of Children, Seniors and Social Development for a review of the refusal. The results of the review will be provided, in writing, to the requestor within 90 days of the receipt of the application. An appeal of the review decision may be made to the Supreme Court.

Procedure

Where a person requests access to adult protection information, the process is as follows:

- the person must be informed of the applicable right to access information being sought and the appropriate form to use to request information;
- the person will be directed to the appropriate provincial health authority staff to process the request; and,
- the regional director will be consulted in the decision-making process concerning the disclosure and will make decisions concerning requests where appropriate.

Where a person requests information concerning an adult declared to be in need of protective intervention, in addition to completing the request in accordance with the procedures set out in this policy, the applicable provincial health authority staff shall advise the person that information may also be held by the Department of Children, Seniors and Social Development and the request will be forwarded to the department.

Personal information held in an adult protection file is generally governed by the provisions of the Act. In many adult protection files, there will be information held that was collected under the **Personal Health Information Act** (PHIA) and will be subject to the disclosure provisions of that Act. Where there is uncertainty as to which Act applies, staff shall consult with appropriate parties which may include provincial health authority legal counsel and/or access to information staff.

Information in the file which is governed solely by the Act can be disclosed where the provisions of the Act permit. Specifically, in the following circumstances and manner:

- **Consent of the person to whom the information relates:** Whenever possible, consent for the gathering and release of information must be obtained from the person who is the subject of the information. Consent for the release of adult protection information and/or attempts to seek consent shall be documented on the adult protection file.
- **Required by another Act:** The disclosure of information may be required by another Act of the province, including, but not limited to, the **Personal Health Information Act** (PHIA), **Access to Information and Protection of Privacy Act** (ATIPPA) or **Children, Youth and Families Act** (CYFA).

Where information is requested under another Act, appropriate staff must document who is requesting the information, under what Act the information is being requested and may wish to consult with provincial health authority legal counsel to ensure that the appropriate legal authority is being applied.

- **Complying with a subpoena, warrant or order:** Adult protection information contained in a client file may be requested in a civil or criminal matter through a subpoena issued by a court, board or tribunal. It may also be ordered by a judge through issuance of a warrant, or application sought by parties to produce some or all of a file. Prior to complying with the subpoena, warrant or order, the regional director may wish to consult with provincial health authority legal counsel to ensure they understand the scope and any requirements related to compliance with the subpoena, warrant or order. In some cases, clarification of the document may be needed, or disclosure of the information may be subject to limitations and/or special timing for

release, for example, release of information under a subpoena will generally be at the hearing date provided in the subpoena itself. When complying with a subpoena, warrant or order, the information released shall be limited to the information requested.

- **Best interest of the person to whom the information relates:** Section 33(2)(d) provides a director the authority to disclose adult protection information without the adult's consent if the disclosure is determined to be in the adult's best interest. In determining the adult's best interest, a director must consider all relevant factors, including but not limited to:
 - whether the disclosure will prevent or reduce the risk of abuse, neglect or self-neglect;
 - whether the disclosure to law enforcement may initiate or facilitate a criminal investigation;
 - whether the disclosure will support the case planning process; or,
 - whether the disclosure will support the preservation of an adult's cultural and community connections;

The decision to disclose information under this provision rests with a director.

- **Performance of duties or exercise of powers:** During the adult protection process, it may necessary for the provincial director, a director or a social worker to disclose information to perform their duties. This may include, but is not limited to, disclosing information while undertaking an investigation, to work with service providers to develop a safety plan to mitigate risk and/or to develop a service plan for an adult declared to be in need of protective intervention.
- **Disclosure to next of kin:** Section 33(2)(f) provides a director authority to disclose information to the next of kin of an adult who is or may be in need of protective intervention, where that disclosure is determined to be in the best interest of the person to whom the information relates.

To apply this provision, it must first be determined that the person fits the definition of next of kin under the Act (see glossary). This includes making reasonable efforts to ensure that there is no other person who has priority to be considered the next of kin and the identity of the person has been verified. When the next of kin has been determined, the disclosure considered must be determined to be in the adult's best interest. In considering this threshold, a director must consider all relevant factors, including but not limited to:

- whether the disclosure will prevent or reduce the risk of abuse, neglect or self-neglect;
- whether the disclosure will support the implementation of the service plan;
- whether the disclosure will support the preservation of family ties and contacts;
- whether the disclosure is necessary for incorporating the next of kin in the care planning process;
- whether the disclosure is necessary to gather information on an adult's wishes and preferences;

- whether the disclosure will support the preservation of an adult's cultural and community connections; or,
 - whether the disclosure is necessary to support an adult to receive support and assistance from next of kin to help the adult understand choices and communicate decisions.
- **Disclosure for research purposes:** The Act permits disclosure where research has been approved by a research ethics body. When a request is received for information obtained under the Act for the purpose of research or evaluation, a director shall ensure the request is sent to the provincial director for review. The director will consult with the provincial director in determining an appropriate provincial health authority response to the request.

Prior to the release of information under any of the above provisions, consideration must also be given to whether there is a reason a person shall be denied access to information as required under section 33(5). These exceptions include:

- **Reasonable grounds to believe disclosure could result in harm:** A person shall be denied or otherwise not provided information where there are reasonable grounds to believe that the disclosure could result in the harm of another person. In determining whether there are reasonable grounds to support this exception, a person employed in the administration of the Act must consider all relevant factors, including but not limited to:
 - whether the type and severity of harm that could be incurred by disclosure outweighs the benefits of disclosure;
 - the link between the disclosure and the harm that is alleged; and,
 - the type and severity of harm.

The social worker should make the appropriate staff aware of any concerns with the disclosure of information where relevant.

- **Disclosure identifies a report source:** The protection of report source identity is central to the functioning and integrity of the reporting process. The identity of a report source under section 12 must not be disclosed unless the person who is the report source consents or a judge orders its release. Prior to a disclosure, all documents in a client file shall be reviewed to remove all references that may identify a report source including, but not limited to, phone numbers, addresses, work locations, pronouns and any contextual information that may reveal their identity.
- **Disclosure jeopardizes an investigation:** This provision applies to both an investigation under the Act, as well as a criminal investigation. The person considering this exception should consult with the director who is authorized to undertake the investigation and where the director believes that disclosure of the information would jeopardize the investigation, the relevant piece(s) of information shall be withheld. In considering this exception, a director should consider all relevant factors, including but not limited to:
 - whether the disclosure will impact investigative interviews; or,

- whether the disclosure will impact the objectivity of the investigation.

If a social worker or provincial health authority representative has a reasonable expectation that a disclosure could jeopardize a criminal investigation, consultation with the appropriate investigatory authority, RNC, RCMP or Crown attorney shall occur. Where the authority advises that disclosure of some pieces of information would jeopardize their criminal investigation, the information will not be disclosed.

When an exception under section 33(5) has been applied, prior to disclosing the records, it must be determined whether the information being withheld can be severed from the remainder of the information. Staff must exercise discretion in determining how much information should be severed and what information will be provided.

All disclosure decisions must be documented on the applicable adult protection file and indicate the rationale for sharing and/or withholding the information. This applies for sharing of information by staff administering the Act in the course of their duties as well as in response to a request from a person.

Where a person who requests information is denied some or all of the information requested, the process is as follows:

- The results must be provided in writing to the verified applicant.
- The person must be provided with the reasons for the refusal and the provision(s) of the Act(s) on which the refusal is based.
- The person must be informed of their ability to apply for a review of a refusal.
- The person will be provided the Non-Disclosure of Information Review Application (see appendix R).
- The completed form will be sent to the Department of Children, Seniors and Social Development.

Where a review of the denial of information is initiated, the process is as follows:

- The Department will notify the appropriate regional director.
- An exact copy of the documents that were released as well as the information that was not released for disclosure, together with any documentation that supports the decisions taken to withhold the information, shall be provided by the provincial health authority to the Department of Children, Seniors and Social Development within five days.
- The results of the review shall be provided, in writing, to the person who requested the review within 90 days of the receipt of the written application.
- The person shall be notified of their right to appeal the review decision to a judge of the Supreme Court.
- If the review determines that additional documents should have been disclosed, they will be provided by the Department within 90 days of the receipt of the written application.

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, the policy manual and the **Violence Prevention Initiative** [<http://www.gov.nl.ca/vpi>]) 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;
 - immediate safety;
 - health status;
 - 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 five 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
The adult's life or health is in imminent danger	The adult's life or health is threatened with potential harm	The adult is living with risk that threatens their independence, self-worth and quality of life	The adult is living with some risk factors that might impact their independence, self-worth and quality of life
Immediate Response	Respond within 24 hours	Respond within 48 hours	Respond within five 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

Appendix B

Links

1. **Adult Protection Act**
(<https://www.assembly.nl.ca/legislation/sr/annualstatutes/2021/A-4.02.chp.htm>)
2. **Adult Protection Regulations**
(<https://www.assembly.nl.ca/Legislation/sr/regulations/rc220084.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>)
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 Advance Health Care Directives Act**
(<https://www.assembly.nl.ca/legislation/sr/statutes/a04-1.htm>)
8. **Mentally Disabled Persons' Estates Act**
(<http://www.assembly.nl.ca/legislation/sr/statutes/m10.htm>)
9. **Access to Information and Protection of Privacy Act**
(<https://www.assembly.nl.ca/legislation/sr/statutes/a01-2.htm>)
10. **Family Violence Protection Act**
(<https://www.assembly.nl.ca/legislation/sr/statutes/f03-1.htm>)
11. **Enduring Powers of Attorney Act**
(<https://www.assembly.nl.ca/Legislation/sr/statutes/e11.htm>)

Appendix C

Adult Protection Report Form (NLHS)

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"/>
Self-Neglect	<input type="checkbox"/>	Emotional	<input type="checkbox"/>
Physical	<input type="checkbox"/>	Psychological	<input type="checkbox"/>
		Spiritual	<input type="checkbox"/>
		Cultural	<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 (please describe): Click here to enter text. Referral to Other Services (please describe): 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 days)	<input type="checkbox"/>

	Name	Position	Phone #	Date
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:

- 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:

- Ask the report source to provide you with as much information as possible concerning the issues/allegations. For example, you may ask the report source questions related to the specific allegation, the adult's current health status and/or living arrangement and/or any observed changes in the adult's behaviour.

- 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 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 real or personal property, including financial 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 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 real or personal property, including financial 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 real or personal property, including financial assets.
- **Abuse** means the deliberate mistreatment of an adult 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 real or personal property, including financial 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 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 real or personal property, including financial 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 their 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 they are 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.

Follow up interview with Report Source (if necessary):

- The social worker may also contact the report source, if necessary to:
 - clarify information contained in the report prior; and/or
 - evaluate the relationship between the report source and the adult who may be in need of protective intervention.

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. Remember it is not the responsibility of report sources to assess capacity. Choose from one of the following:
 - Adult has capacity
 - No indicator of abuse/neglect

- Adult receiving services under CYFA Act; or
 - Adult is certified or under a Community Treatment Order under MHCTA
- Describe why it does not meet adult protection criteria.
- Describe any referral made to other services i.e. community support program.

- 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 REPORT FORM

Adult Protection Act Police Report

RNC RCMP

Police File #

Report by Public to Police

Report Self-Generated by Police

Demographic Information

Report Source

Surname:	<input style="width: 90%;" type="text"/>	G1:	<input style="width: 90%;" type="text"/>	G2:	<input style="width: 90%;" type="text"/>
Civic Address:	<input style="width: 90%;" type="text"/>	Phone #	<input style="width: 90%;" type="text"/>		
DOB:	<input style="width: 90%;" type="text"/>	Gender:	<input style="width: 90%;" type="text"/>		
Relationship to Adult	<input style="width: 95%;" type="text"/>				
Confidential	<input style="width: 95%;" type="text"/>				

Adult Who May Be in Need of Protective Intervention

Surname:	<input style="width: 90%;" type="text"/>	G1:	<input style="width: 90%;" type="text"/>	G2:	<input style="width: 90%;" type="text"/>
DOB:	<input style="width: 90%;" type="text"/>	Gender:	<input style="width: 90%;" type="text"/>	MCP # (if available)	<input style="width: 90%;" type="text"/>
Age:	<input style="width: 90%;" type="text"/>				
Current Location of Adult:	<input style="width: 95%;" type="text"/>				
Permanent Address:	<input style="width: 90%;" type="text"/>	Phone #	<input style="width: 90%;" type="text"/>		
Emergency Contact:	<input style="width: 90%;" type="text"/>	Phone #	<input style="width: 90%;" type="text"/>		
Substitute Decision Maker	<input style="width: 90%;" type="text"/>	Phone #	<input style="width: 90%;" type="text"/>		

Suspect (Source of Alleged Abuse/Neglect)

Surname:	<input style="width: 90%;" type="text"/>	G1:	<input style="width: 90%;" type="text"/>	G2:	<input style="width: 90%;" type="text"/>
Permanent Address:	<input style="width: 90%;" type="text"/>	Phone #	<input style="width: 90%;" type="text"/>		
DOB:	<input style="width: 90%;" type="text"/>	Gender:	<input style="width: 90%;" type="text"/>	Relationship to Adult:	<input style="width: 90%;" type="text"/>

Other Witnesses and/or Sources of Information			
Surname:	<input type="text"/>	G1:	<input type="text"/>
Permanent Address:	<input type="text"/>		Phone # <input type="text"/>
DOB:	<input type="text"/>	Gender:	<input type="text"/>
Surname:	<input type="text"/>	G1:	<input type="text"/>
Permanent Address:	<input type="text"/>		Phone # <input type="text"/>
DOB:	<input type="text"/>	Gender:	<input type="text"/>

Issue(s)/Allegations

<input type="checkbox"/> Neglect	<input type="checkbox"/> Financial Abuse	<input type="checkbox"/> Spiritual Abuse	<input type="checkbox"/> Emotional Abuse
<input type="checkbox"/> Self-Neglect	<input type="checkbox"/> Physical Abuse	<input type="checkbox"/> Verbal Abuse	<input type="checkbox"/> Cultural Abuse
<input type="checkbox"/> Sexual Abuse	<input type="checkbox"/> Psychological Abuse		
<input type="checkbox"/> Appears to Lack Capacity			

Police Report Synopsis

Summary of Report Information

Is the adult aware of the report?	<input type="text"/>
Is assistance required with communication?	<input type="text"/>

If yes, explain below:

Report Processing

Regional Health Authority Contacted:	<input type="text"/>				
Regional Health Authority Representative Notified:	<input type="text"/>				
Report Faxed/Emailed:	<input type="text"/>				
Completed by:	<input type="text"/>	Reg #	<input type="text"/>	Date	<input type="text"/>

RHA Internal Use Only

Received by:	<input type="text"/>	Position:	<input type="text"/>	Phone:	<input type="text"/>	Date	<input type="text"/>
Assigned to:	<input type="text"/>	Position:	<input type="text"/>	Phone:	<input type="text"/>	Date	<input type="text"/>
Does report meet adult protection criteria?	<input type="text"/>						
Reason:	<input type="text"/>						
Referral to other services:	<input type="text"/>						

Additional Comments

Reports can be submitted to the below contacts:

Eastern region: 709-754-4592 (fax); adultprotection@easternhealth.ca (email)

Central region: 709-489-8844 (fax)

Western region:

- Corner Brook: 639-5912 (fax)
- Stephenville: 643-8732 (fax)

Labrador-Grenfell region:

- Labrador City/Wabush/Churchill Falls: 709-944-3722 (fax)
- Goose Bay/SSS/North Coast: 709-896-2725 (fax)
- South Coast Communities: 709-960-0350 (fax)
- St. Anthony: 709-454-2464 (fax)
- Flower's Cove: 709-456-2115 (fax)
- Roddickton: 709-457-2036 (fax)

Appendix F

Adult Protection Act Police Report Form User Guide

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

RNC/RCMP:

- Record you organization (RNC or RCMP)

File Number:

- Record the file number. The file number documented by the RNC/RCMP will reflect the RNC/RCMP internal filing system.

Report by Public or Self-Generated:

- Record whether the report was received from the public **or** is self-generated by police.

Demographic Information

- **Report Source:** Ask the report source to provide you with contact information. If the report was self-generated by police, please include the name and contact number of the reporting officer. This will enable the social worker to follow up with the officer on the report.
- **Adult Who May Be in Need of Protective Intervention:** 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.
- **Suspect (Source of Alleged Abuse/Neglect):** Record demographic information of the source of alleged abuse/neglect including the name, address, phone number, and relationship to adult.
- **Other Witnesses and/or Sources of Information:** Record demographic information of any other witnesses or sources of information such as another person living in the adult's home.

Issue(S)/Allegations

- Record the type of abuse or neglect/self-neglect. A description of the types are identified below. More than one allegation may be highlighted.
- Record whether the adult appears to lack capacity.
- **Neglect** means the failure to provide care, assistance, guidance or attention to an adult 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 real or personal property, including financial 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 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 real or personal property, including financial 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 real or personal property, including financial assets.
- **Abuse** means the deliberate mistreatment of an adult 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** (<http://www.gov.nl.ca/vpi>) 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 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 their 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 they are 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 their cultural, religious or traditional practices. For example, honour crimes may be committed resulting in physical harm to or abandonment of the adult.
- **Police Report Synopsis:** Provide a detailed description of the indicators of the issues/allegations of neglect, self-neglect or abuse. Additional/supplemental information may be recorded on page 3 of the form.

Summary of Report Information

- Record whether the adult is aware that an adult protection report has been made. This information will be provided by the report source or can be reported by the reporting officer. The adult's knowledge of the report will be verified directly with the adult when initial contact is made during the evaluation.
- Record whether the adult requires assistance with communication. For example, a spokesperson, an interpreter or a technical aid may provide support.

Report Processing

- The report form must be signed, dated and forwarded **immediately** to the Regional Health Authority social worker designated to receive the report. Applicable fax and/or email are included on page 3 of the report form.
- Contact the designated social worker, manager or regional director to confirm receipt of the report and request immediate review. **This can be done by calling the toll-free number 1-855-376-4957.** Record on the report form that the Regional Health Authority has been contacted and record the Regional Health Authority representative that has been notified of the report.

- Attach a copy of the report to the police file.

Appendix G

Adult Protection Evaluation Form

File Number: File Number

Date Evaluation Commenced:

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 <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.		

Summary of Interview(s)/Observation(s) (with adult)
Click here to enter text.

Collateral Information
Interdisciplinary Input: Click here to enter text.

Other Sources: 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 <input type="checkbox"/>
High <input type="checkbox"/>
Moderate <input type="checkbox"/>
Low <input type="checkbox"/>

Intervention Plan
Further action required? Yes <input type="checkbox"/> No <input type="checkbox"/>
Referral to other services/resources? Yes <input type="checkbox"/> No <input type="checkbox"/>
Please describe: Click here to enter text.
Investigation Warranted (must consult with regional director)
Immediately (same day) <input type="checkbox"/>
Within 24 hours <input type="checkbox"/>
Within 48 hours <input type="checkbox"/>
Within 5 days <input type="checkbox"/>

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

Comments (to be completed by manager/coordinator/regional director only)

Click here to enter text.

Appendix H 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.

Date evaluation commenced:

- Record the date the evaluation begins.

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.
- Attempt to obtain consent from the adult to proceed with the evaluation and complete the **Adult Protection Consent Form** (see appendix H) with the adult. If the consent of the adult is not obtained, 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.

Summary of Interviews/Observations (with adult):

- Determine whether the adult understands and appreciates the level of risk associated with the specific area(s) of concern.
- 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.

Collateral Information

- Remember that consent from the adult is required to gather collateral information.
- Record results of consultation with other professionals. This may mean consultation with a family physician, geriatrician, nurse, occupational therapist or other professional.
- Record information provided by 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.

Current Services (formal and Informal)

- 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.

Intervention Plan

- Determine whether further action is required.
- If no further action is required, provide a description of this rationale. 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 as there is evidence to suggest the adult lacks capacity, is at risk due to abuse and/or neglect, and is refusing supportive services and/or the consent of the adult is not obtained and an investigation is necessary to gather collateral information and mitigate the risk.

Investigation Warranted (if applicable)

- Based on the identified level of risk determine the response time (immediate, within 24 hours, within 48 hours or within five 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 and provide comments in the text box (if applicable).

Appendix I
Adult Protection Consent Form
(Evaluation)

Adult's Name:

Adult's Address:

Phone #

DOB:

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** alleging that I, _____, have been abused, neglected and/or self-neglected.
(Adult's Name)

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 up to and including _____ or, upon completion of the evaluation, whichever occurs first.
(10 days from the day after the report was received)

The **Adult Protection Act** evaluation process and potential outcomes were explained to me. I have been given the opportunity to ask for additional information and clarification and have been advised of my right to a spokesperson and legal counsel. I am providing this consent freely and understand that I may revise, limit, or withdraw my consent at any time by notifying the assigned social worker at the contact provided.

Adult's Signature

Social Worker's Signature

Adult's Name (print)

Date

To be completed where verbal consent is obtained:

I, _____, attest that the above information and rights were discussed
(Social Worker)
with _____, and that verbal consent to complete an Evaluation under
(Adult's Name)
the **Adult Protection Act** was provided.

Social Worker's Signature

Date

Appendix J

Adult Protection Investigation Form

File Number: File Number

Date Report Received: Date

Date Evaluation Completed: Date

Date Investigation Commenced and Completed: Date

Investigator: Name

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
Address:	Next of Kin (if applicable): Contact
Substitute Decision Maker (if applicable): Decision Maker	

Background

Report Summary: [Click here to enter text.](#)

Evaluation Summary: [Click here to enter text.](#)

Rationale for proceeding to investigation: [Click here to enter text.](#)

Investigation Summary

[Click here to enter text.](#)

Clinical Analysis

[Click here to enter text.](#)

Actions and Recommendations

Click here to enter text.

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

Click here to enter text.

Regional Director

Click here to enter text.

Date

Appendix K

Adult Protection Investigation Report User Guide

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

File Number

- The health authority file number assigned when the report was received.

Dates

- Document the following dates:
 - Date report received.
 - Date evaluation completed.
 - Date investigation commenced.

Demographic Information

- Record contact information (see report and evaluation form) for the adult who may be in need of protective intervention.

Background

- Document a summary of the report. This 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.
- Where applicable, include information about the adult's past involvement with adult protection, such as the type of allegation/issue made and the intervention that occurred.
- Document a summary of the evaluation. This 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. Reasons for proceeding to investigation include:
 - the adult who is or may be in need of protective intervention has declined supportive services;
 - additional time is required for assessment; or,
 - consent of the adult is not obtained and an investigation is necessary to gather collateral information and mitigate the risk.

Investigation Summary

- Consent from the adult who may be in need of protective intervention is not required during the investigation, however, the adult should be involved in the investigation to the greatest extent possible.
- Document details of the investigation interventions, including:
 - any records and/or reports reviewed (e.g. Evaluation form, financial records, medical reports, policies/procedures reviewed).
 - interviews and observations with the adult.

- collateral information (interdisciplinary input and/or other sources, e.g. family, friends, etc.).
- Document all attempts to find any less intrusive options to mitigate the risk (e.g. provision of supports and services, support from a substitute decision maker under **Advance Health Care Directives Act**, power of attorney/enduring power of attorney **Enduring Powers of Attorney Act**, financial guardian under the **Mentally Disabled Persons Estates Act**).
- Document all adult protection court interventions, including Section 20 and 21 Temporary Orders, Section 26 emergency removal or Section 27 emergency financial intervention.
- If a capacity assessment is initiated, the assessment report must be appended. Capacity assessment report forms can be found in the Formal Interdisciplinary Capacity Assessment Guidelines. A formal capacity assessment should only be initiated if there is a valid trigger and all options have been exhausted.

Clinical Analysis

- Complete a thorough clinical analysis of the facts. This is essential in documenting your clinical judgement, explaining the interventions taken and supporting your actions and recommendations.
- 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 the facts gathered through observation, interviews with the adult and any other information sources, as well as a review of any reports or written information.
- State whether or not the adult is in need of protective intervention.

Actions and Recommendations

- Document the actions taken and/or recommendations needed to minimize risk and support the adult who may need protective intervention. If an application for declaration is being recommended this report must:
 - explain the reasons supporting the belief the adult should be declared in need of protective intervention;
 - include the types of orders that are recommended, including terms and conditions that may apply; and,
 - include a service plan.
- The assigned worker, manager and regional director will sign and date the investigation report form.

Appendix

- The following documents must be appended to the investigation report:
 - APA Report.
 - APA Evaluation.
 - Formal Capacity Assessment report and/or any other capacity assessment documentation (if completed).
 - Court orders (if completed).
 - Service plan (if recommending application for declaration).

Appendix L
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 Investigation Extension

Application for Temporary Orders

Application for Declaration (Provincial)

Application for Declaration (Supreme)

Affidavit (Provincial)

Affidavit (Supreme)

Affidavit of Service (Provincial)

Affidavit of Service (Supreme)

Notice to Adult (Provincial)

Notice to Adult (Supreme)

Notice to Respondent(s) (Provincial)

Notice to Respondent(s) (Supreme)

Notice to Public Trustee

Appendix M

**Request for Information
Pursuant to Section 16 of Adult Protection Act, 2021**

Date

XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX

Dear xxxxxxxxx,

There is an active investigation pursuant to section 16 of the **Adult Protection Act, 2021**. It is believed that you have custody or control of information that is necessary in determining whether _____ is, or may be, an adult in need
Name and Address
of protective intervention as defined in section 5 of the **Adult Protection Act, 2021**. The information is being requested on the following persons:

Name	DOB	Address

The information being requested:

Please provide the undersigned with the requested information by _____
Date

This information is required to enable a manager or social worker to exercise their powers or perform their duties under the **Adult Protection Act, 2021**. Failure to provide the information may result in an application being made for a court order to obtain the information.

If you have any questions, or would like to discuss this matter, do not hesitate to contact me at xxxxx.

Thank you for your support with this matter.

Regards,

xxxxxxxxxx
Regional Director, Adult Protection

Appendix N

Adult Protection Service Plan

Date:

Service Plan Review Date:

Demographic Information	
Name: <input type="text" value="Name"/>	Date of Birth/Age: <input type="text" value="Date of Birth/Age"/>
Phone #: <input type="text" value="Phone #"/>	MCP Number: <input type="text" value="MCP"/>
Permanent Address: <input type="text"/>	Emergency Contact/Contact Person: <input type="text" value="Contact"/>
Date of Declaration of Adult in Need of Protective Intervention (if applicable): <input type="text"/>	Substitute Decision Maker (if applicable): <input type="text" value="Decision Maker"/>
Date of Capacity Assessment (if applicable): <input type="text"/>	Date of Office of the Public Trustee involvement: <input type="text"/>

Decision-Making	
Area(s) where adult lacks capacity:	
Health Care <input type="checkbox"/>	Financial <input type="checkbox"/>
Physical <input type="checkbox"/>	Legal <input type="checkbox"/>
Emotional <input type="checkbox"/>	Residential <input type="checkbox"/>
Psychological <input type="checkbox"/>	Social <input type="checkbox"/>
Decision-making arrangements: Click here to enter text.	

Advance Care Planning:
Click here to enter text.

Involvement of the Adult:

Click here to enter text.

Medical/Health Information:

Diagnosis: Click here to enter text.

Medications: Click here to enter text.

Other medical issues: Click here to enter text.

Communication Aids (if applicable):

Click here to enter text.

Case Details:

Abuse/Neglect Allegations: [Click here to enter text.](#)

Level of Risk: [Click here to enter text.](#)

Existing Formal and Informal Supports: [Click here to enter text.](#)

Formal Capacity Assessment Results:

[Click here to enter text.](#)

Service Needs:

Formal (professional and supportive services / interventions): [Click here to enter text.](#)

Informal (family/friends/caregivers): Click here to enter text.

Financial (Public Trustee involvement/private): Click here to enter text.

Cultural Considerations:

Click here to enter text.

Recommended Safety Plan:

Click here to enter text.

Date of Court Hearing:
Court Orders:
Click here to enter text.

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

Click here to enter text.
Regional Director

Click here to enter text.
Date

Appendix O

Adult Protection Service Plan Review

Date:

Demographic Information	
Name: <input type="text" value="Name"/>	Date of Birth/Age: <input type="text" value="Date of Birth/Age"/>
Phone #: <input type="text" value="Phone #"/>	MCP Number: <input type="text" value="MCP"/>
Permanent Address:	Emergency Contact/Contact Person: <input type="text" value="Contact"/>
Date of Declaration of Adult in Need of Protective Intervention (if applicable):	Substitute Decision Maker (if applicable): <input type="text" value="Decision Maker"/>
Date of Capacity Assessment (if applicable):	Date of Office of the Public Trustee involvement:
Date of Capacity Re-assessment (if applicable):	

Advance Care Planning:
<input type="text" value="Click here to enter text."/>

Medical/Health Information:
Diagnosis: <input type="text" value="Click here to enter text."/>

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

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

Communication Aids (if applicable):

[Click here to enter text.](#)

Case Details

Summary of Case History: [Click here to enter text.](#)

Summary of Activities of Daily Living: [Click here to enter text.](#)

Existing Formal and Informal Supports: [Click here to enter text.](#)

Current Case Status: [Click here to enter text.](#)

Formal Capacity Assessment, if applicable

Does the adult's capacity require reassessment?

- Yes (provide details explaining why)
- No

[Click here to enter text.](#)

Service Needs

Formal (professional and supportive services / interventions): [Click here to enter text.](#)

Informal supports (family/friends): [Click here to enter text.](#)

Financial (Public Trustee involvement/private): Click here to enter text.

Service Plan Evaluation Recommendations:

Click here to enter text.

Date of Next Service Plan Review: Date

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

Click here to enter text.

Director

Click here to enter text.

Date

Appendix P

Adult Protection Provincial Review Committee Recommendations

Date:

Demographic Information	
Name: <input style="width: 90%;" type="text" value="Name"/>	Date of Birth/Age: <input style="width: 90%;" type="text" value="Date of Birth/Age"/>
Phone #: <input style="width: 90%;" type="text" value="Phone #"/>	MCP Number: <input style="width: 90%;" type="text" value="MCP"/>
Permanent Address:	Emergency Contact/Contact Person: <input style="width: 90%;" type="text" value="Contact"/>
Date of Declaration of Adult in Need of Protective Intervention (if applicable):	Substitute Decision Maker (if applicable): <input style="width: 90%;" type="text" value="Decision Maker"/>
Date of Capacity Assessment (if applicable):	Date of Office of the Public Trustee involvement:
Date of Capacity Re-assessment (if applicable):	

Review Committee Recommendation
<input type="checkbox"/> Declaration repealed <input type="checkbox"/> Declaration remains <input type="checkbox"/> Declaration remains with revisions to service plan (provide details)
<p>Click here to enter text.</p> <div style="border: 1px solid black; height: 100px; width: 100%;"></div>

Provincial Director (print name)

Provincial Director (signature)

Date

Appendix Q

Request for Access to Adult Protection Information

Information under this form is collected under the **Adult Protection Act, 2021** and disclosure is subject to section 33.

Part A: To be Completed by Applicant

To avoid delays in processing your request, please ensure that all sections are completed.

Name of applicant:

Location/Address:

Telephone Number:

Email address:

I am requesting information collected under the **Adult Protection Act** concerning the following individual:

Name:

Date of Birth:

MCP Number:

Please provide a detailed description of information being requested. Please be as specific as possible with respect to dates, type of information etc.

If the applicant is not the individual whose information is sought, please complete the following:

The information I seek is in regard of _____, not myself, and the basis upon which I am able to obtain information about the individual is as follows (**please provide copies of documents that may verify authority referenced**):

Signature of Applicant:

Date:

Please note that you are required to provide proof of identification prior to receiving information. If you are not the individual named in the request, appropriate consent of the client/patient/resident is required.

Part B: To be Completed by Provincial Health Authority

Date request received:

Number of pages copied:

Date information sent:

Signature of RHA staff:

Please place this form in the adult protection file when the request has been completed.

Appendix R
Adult Protection Act, 2021

Non-Disclosure of Information Review Application

Name of Applicant:

Mailing Address:

Telephone Number:

Email:

I applied for information collected under the **Adult Protection Act, 2021** from the following source

_____ on _____.

Date

On [blank date] I was advised by [blank] that I was denied access to portions of the information requested. [Please enclose a copy of correspondence received where possible.]

AND:

I am requesting a review by the Department of Children, Seniors and Social Development. I believe that the decision to deny access to information held under the **Adult Protection Act, 2021** was incorrect for the following reasons:

I ask that the decision be reviewed and any additional information I am eligible to receive be provided to me.

Signature:

Date:

Please forward request for review to:

Department of Children, Senior and Social Development

P.O. Box 8700

St. John's, NL A1B 4J6

Tel: 1-709-729-0760

Fax: 1-709-729-6382

Email: CSSDInfo@gov.nl.ca

Appendix S

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, peace officer or manager records information on Adult Protection Report Form.

- Social worker, who receives the report, commences assessment **as soon as possible** within designated time-frame based on level of risk.
- Evaluation proceeds with the consent of the adult.
- Social worker completes the evaluation not later than 10 days after receiving report and submits the Adult Protection

EVALUATION

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

Social worker completes an investigation including a thorough risk assessment, review of records, coordination of a capacity assessment (if necessary) and development of a service plan (if necessary). Investigation is completed within 30 days. Investigation report sent to Provincial Director not later than 10 days following investigation.

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 and the Regional Directors of Adult Protection.

Declaration repealed.

Declaration remains.

Declaration remains with revisions to service plan.

Appendix T
Additional Resources

Formal Interdisciplinary Capacity Assessment Guidelines (2nd edition)

Adult Protection Financial Abuse Guidelines

These resources are located on the health authority intranet.

Appendix U

Abbreviations Used in Adult Protection

- APA – Adult Protection Act
- AP – Adult Protection
- AR – Annual Review
- CRMS – Client Referral Management System
- CSSD – Department of Children Seniors and Social Development
- CYFA – Children, Youth and Families Act
- DHCS – Department of Health and Community Services
- HV – Home Visit
- JPS – Department of Justice and Public Safety
- MH&A – Mental Health and Addictions
- MHCTA – Mental Health Care and Treatment Act
- NLCHI – Newfoundland and Labrador Centre for Health Information
- NLHS – Newfoundland and Labrador Health Services
- OPT – Office of the Public Trustee
- OT – Occupational Therapist
- OV – Office Visit
- PD – Provincial Director (of Adult Protection)
- PT – Physiotherapist
- RCMP – Royal Canadian Mounted Police
- RD – Regional Director (of Adult Protection)
- RNC – Royal Newfoundland Constabulary
- RS – Report Source
- RSW – Registered Social Worker
- SLP – Speech Language Pathologist
- SP – Service Plan
- TC – Telephone Call