

BC's Adult Guardianship Laws: Supporting Self Determination for Adults in British Columbia

PROTECTING ADULTS FROM ABUSE, NEGLECT AND SELF NEGLECT

When adults are abused or neglected, it can be difficult to know if or when to step in. We assume that adults can take care of themselves, but we know this is not always true. Sometimes adults cannot seek the help they need because of a physical restraint, a physical handicap, an illness, disease, injury or other condition that affects their ability to make decisions.

Part 3 of the *Adult Guardianship Act*: Support and Assistance for Abused and Neglected Adults addresses such situations. It:

- defines adult abuse, neglect and self neglect and lays down principles to guide our actions,
- promotes the provision of support and assistance,
- provides legal tools for more formal intervention, if needed, for people who are unable to seek help on their own,
- enables the development of coordinated community responses called Community Response Networks or CRNs.

What is abuse, neglect and self neglect?

Abuse is deliberate mistreatment that causes physical, mental or emotional harm, or damage to or loss in respect of the adult's financial affairs. It includes:

- intimidation
- humiliation
- physical assault
- sexual assault
- overmedication
- withholding needed medication
- censoring mail
- invasion or denial of privacy, and
- denial of access to visitors.

Neglect is any failure to provide necessary care, assistance, guidance or attention if that failure causes, or is reasonably likely to cause, within a short period of time, serious physical, mental or emotional harm, or substantial damage or loss in respect of the adult's financial affairs.

Self Neglect is any failure of an adult to take care of him/herself that causes, or is reasonably likely to cause, within a short period of time, serious physical or mental harm or substantial damage or loss in respect of the adult's financial affairs.

It includes:

- living in grossly unsanitary conditions,
- suffering from an untreated illness, disease or injury,
- suffering from malnutrition that is likely to severely impair a person's physical or mental health creating a hazardous situation that will likely cause serious physical harm to the adult or others or cause substantial damage to or loss of property, and
- suffering from an illness, disease or injury that results in the adult dealing with his or her financial affairs in a manner likely to cause substantial damage or loss.

The *Adult Guardianship Act* applies to abuse, neglect and self neglect in a public place, the adult's home, a care facility or any other place except a correctional centre.



What are the principles guiding intervention under the Act?

- All adults are entitled to live in the manner they wish and to accept or refuse support, assistance or protection as long as they do not harm others and they are capable of making decisions about these matters.
- All adults should receive the most effective but the least intrusive and restrictive form of support, assistance or protection when they are unable to care for themselves or their financial affairs.
- The court should not be asked to appoint, and should not appoint guardians unless alternatives such as the provision of support and assistance have been tried or carefully considered.
- Until the contrary is demonstrated, every adult is presumed to be capable of making decisions about personal care, health care and financial affairs.
- An adult's way of communicating with others is not grounds for deciding that he or she is incapable of making decisions.

Who will provide support and assistance and who can use the new legal tools?

According to these principles, even if an adult seems to be in an abusive or neglectful situation, he or she has the right to decide whether to accept or refuse offers of help if he or she is capable of making such decisions.

There are many community agencies, including agencies designated under the Act, that may hear about these kinds of situations and offer support or make referrals to enable the adult to get assistance if they want it.

If a **designated agency** receives a report about an adult, that agency has a legal responsibility to look into the situation and to talk directly with the adult,

involving him or her as much as possible in addressing his or her situation.

The **designated agencies** in BC are:

- The five Regional Health Authorities,
- Providence Health Care Society (some hospital settings in Vancouver), and
- Community Living BC (for adults who are eligible for these services).

Designated agencies work with the adult to give the kind of support that he or she wants and needs. This may include informal support from friends, family and advocates. It may also include other services such as home support, meal services or a day program. Many situations will be addressed in this way.

If the situation cannot be resolved informally, is urgent or dangerous, and the designated agency is concerned that the adult seems unable to get assistance on his or her own due to a physical restraint, physical handicap or an illness, disease, injury or other condition that affects his or her ability to make decisions, the Act gives designated agencies legal tools to protect adults.

These tools include:

- legal authority to get in to see an adult when access has been denied,
- short and longer term restraining orders to keep alleged abusers away, and
- Support and Assistance court orders to get an adult the needed supports, if he or she has been assessed as being mentally incapable of refusing the help.

Designated agencies must also report criminal offences to the police.

To learn more about the designated agency in your health region and/or find a local phone number check the following:

Fraser Health:

1.877.REACT.08 (1.877.732.2808)

www.fraserhealth.ca/your_care/adult_abuse_and_neglect/getting_help

Interior Health:

For direct community numbers visit:

www.interiorhealth.ca/report.aspx

Northern Health:

Prince George Adult Protection Line: 250.565.7414

Vancouver Coastal Health:

- Providence Health Care: 1.877.REACT.99 (1.877.732.2899)
- Re:Act Response Resource : 1.877.REACT.99 (1.877.732.2899)
- For more direct community numbers visit: www.vchreact.ca/report.htm

Vancouver Island health Authority:

- South Island: 1.888.533.2273
- Central Island: 1.877.734.4101
- North Island: 1.866.928.4988

Community Living BC (CLBC):

CLBC is the designated agency for all individuals with a developmental disability who are eligible for CLBC services. For locations and contacts, visit:

www.communitylivingbc.ca

Designated agencies may also work closely with the Public Guardian and Trustee of BC (PGT) in some situations.

How does the Public Guardian and Trustee work with designated agencies?

The PGT has powers under the *Public Guardian and Trustee Act* to investigate reports of abuse and neglect when an adult's assets are at risk and the adult is not capable of managing his or her financial affairs. As a

result, the PGT may receive reports from designated agencies when there is a concern about financial abuse, neglect or self neglect. The PGT has the authority to carry out an investigation and determine the options to be explored. If the adult requires someone to make financial and legal decisions, and there are no less intrusive options, the PGT may take steps to become committee of the estate in order to make financial decisions to protect the adult's assets.

Sometimes the PGT receives a report from a friend, neighbour or concerned person regarding alleged abuse, neglect or self neglect of a vulnerable adult. The PGT may be able to investigate the concerns. However, it will refer the situation to a designated agency if there are concerns about physical risk or harm. For more information on the role and services of the PGT, see the PGT website at: www.trustee.bc.ca

What is a Community Response Network or CRN?

Abuse and neglect are complex issues that require the experience and concern of many people and organizations to be effectively addressed. A **Community Response Network or CRN** is a group of people and organizations in a community who work together to create a coordinated response to adult abuse, neglect and self neglect by:

- including everyone in the community who wants to be involved,
- raising community awareness and developing protocols among members about how organizations or agencies will respond when an adult needs help,
- keeping track of how the response is working and,
- working towards prevention.

CRN members can be anyone in the community concerned about adult abuse and neglect including designated agencies, police, community organizations serving specific groups, faith communities, financial institutions, advocacy organizations and concerned citizens. Today, approximately 30-40 communities in BC have active CRNs.

For more information on Community Response Networks, contact:

**BC Association of Community
Response Networks**

15008 - 26th Ave
Surrey, BC V4P 3H5

Website: www.bccrns.ca

Email: info@bccrns.ca

For more information about the services of the PGT and for links to further resources:

Contact the Public Guardian and Trustee

Greater Vancouver Regional Office

700-808 West Hastings Street,
Vancouver, BC V6C 3L3

Tel: 604.775.1007

Fax: 604.660.9498

email: ClericalRequest6@trustee.bc.ca

Lower Mainland Regional Office

700-808 West Hastings Street,
Vancouver, BC V6C 3L3

Tel: 604.775.1001

Fax: 604.660.9479

email: ClericalRequest6@trustee.bc.ca

Interior-North Regional Office

1345 St. Paul Street,
Kelowna, BC V1Y 2E2

Tel: 250.712.7576

Fax: 250.712.7578

email: kpifaa@trustee.bc.ca

Vancouver Island Regional Office

1215 Broad Street
Victoria, BC V8W 2A4

Tel: 250.356.8160

Fax: 250.356.7442

email: Victoria-Clerical@trustee.bc.ca

Website: www.trustee.bc.ca | email: mail@trustee.bc.ca

Toll free calling is available through Service BC. After dialing the appropriate number for your area (below), request to be transferred to the Public Guardian and Trustee (regular office hours 8:30am-4:30pm, Mon-Fri).

Vancouver: 604.660.2421

Victoria: 250.387.6121

Other areas of BC: 1.800.663.7867



PUBLIC GUARDIAN
AND TRUSTEE OF
BRITISH COLUMBIA