

B.C.'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
- 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 of assets. 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 to or loss of assets.

Self-Neglect is any failure of an adult to take care of himself that causes, or is reasonably likely to cause, within a short period of time, serious physical or mental harm or substantial damage to or loss of assets. 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 assets, and
- suffering from an illness, disease or injury that results in the adult dealing with his or her assets 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 assets.
- The court should not be asked to appoint, and should not appoint, decision-makers or 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, legal matters or about the adult's financial affairs, business or assets.
- 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, they have the right to decide whether to accept or refuse offers of help if they are 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 them as much as possible in addressing their situation. The **designated agencies** in BC are:

- the five Regional Health Authorities, and
- Community Living B.C. (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 their own due to a physical restraint, physical handicap or an illness, disease, injury or other condition that affects their ability to make decisions, the Act gives designated agencies new 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 Order to get an adult the needed supports, if they have been assessed as being mentally incapable of refusing the help.

Designated agencies must also report criminal offences to the police.

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 providing education
- developing agreements or 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 50 communities in BC have active CRNs.

For more information on Community Response Networks, contact:

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How can I get more information about BC's adult guardianship laws?

This is one in a series of publications about BC's adult guardianship laws. There is a detailed guide:

"Part 3 of the Adult Guardianship Act: Support and Assistance for Abused and Neglected Adults - A Guide for Communities".

For more information, visit our website, write, call or fax:

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