

re:act

recognize and report

act on adult abuse and neglect



A MANUAL FOR VANCOUVER COASTAL HEALTH STAFF

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INTRODUCTION

Abuse, neglect and self-neglect occur in all cultures, across all socioeconomic groups, and in every age range, regardless of gender, religion, race or sexual orientation. Common characteristics are prevalent in all situations of violence and mistreatment.

Certain members of our society are more vulnerable than others to abuse, neglect and self-neglect. This manual focuses on **adults** who are more **vulnerable** due to physical restraint from seeking assistance, physical disability, illness, disease, injury, or other conditions that affect their ability to make decisions or seek support and assistance.

The *Re:act Manual* is intended to guide VCH staff in responding to reports of abuse, neglect and self-abuse, taking appropriate measures, and providing necessary support. The manual includes sections on:

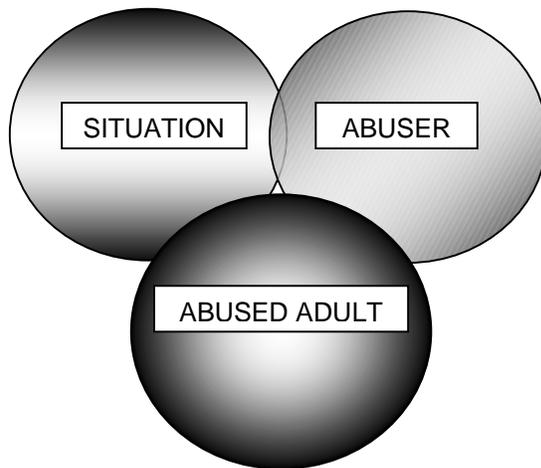
- An Overview of the Adult Guardianship Act
- Physical, Sexual and Psychological Abuse
- Financial Abuse
- Neglect/Self-Neglect
- Working with Police
- Assessment Tools
- Appendices
- References/Resources

The sections on abuse, neglect and self-neglect include complete information on the assessment process and actions to take. As a result, some information is repeated in each of these sections.

The last three sections of the manual contain Assessment Tools, Appendices and References/Resources that will be helpful to staff responding to situations of reported abuse, neglect and self-neglect of vulnerable adults.

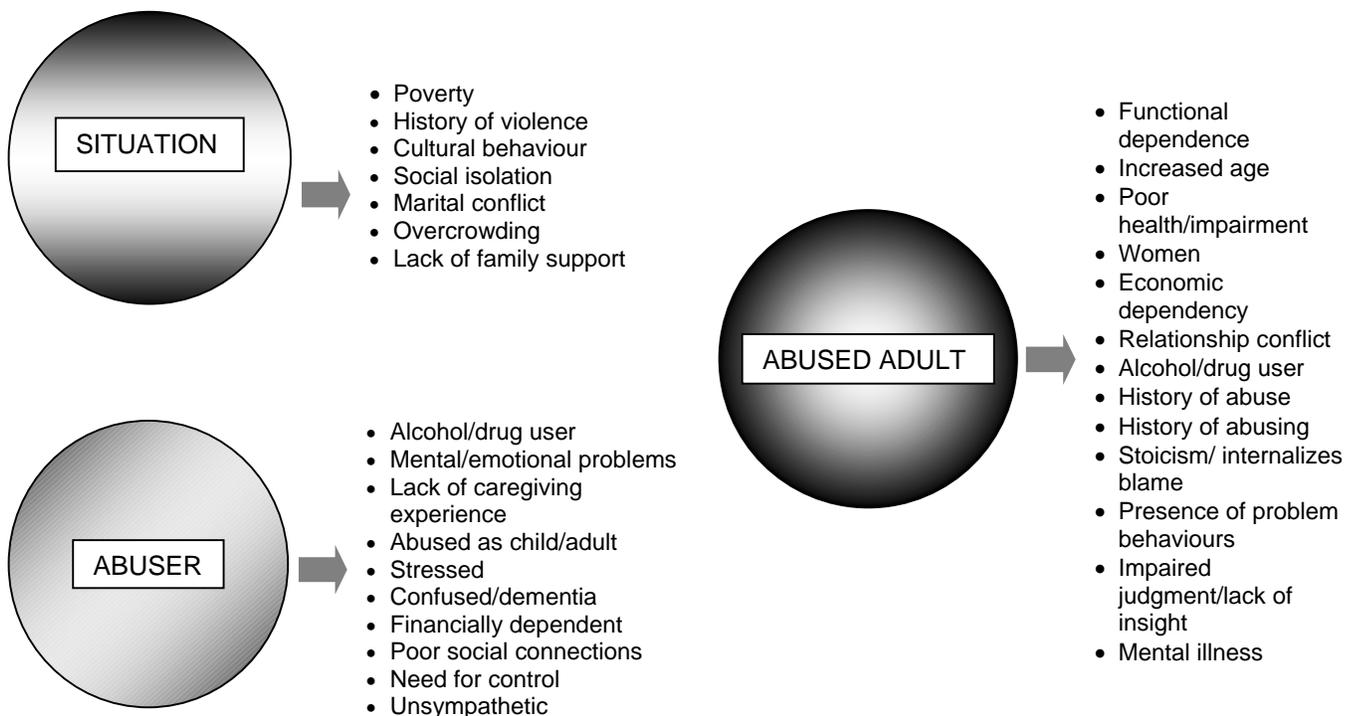
Understanding the Dynamics of Abuse and Neglect

As health care providers, it is useful to conceptualize a model of abuse, neglect and self-neglect as dynamic and interactive. All people live within the context of their own physical self, their environment, and their relationships to others. It is necessary to look at and understand all parts to determine the safest, most effective point of intervention.



Adapted from Kozak, Elmslie & Verdon, 1995

Intervention strategies are guided by a thorough assessment of the adult, the situation and the abuser. Analyzing the dynamics is critical. The following risk factors are correlated with abuse and neglect. Recognizing these risks can help you identify situations that may require further inquiry.



Be aware of conflicting reports from the vulnerable adult and abuser, as these may be markers for intervention. The following behavioural indicators may be associated with an abused adult and an abuser:

A Potential Victim May:

- Have injuries that do not match the explanation given by the patient or others
- Have repeated “accidental injuries”
- Appear isolated
- Say or hint at being afraid
- Consider or attempt suicide
- Have a history of alcohol or drug use (including prescription drugs)
- Present as a “difficult” client
- Have vague, chronic complaints
- Miss appointments
- Be unable to follow through on a treatment plan or medical care
- Delay seeking medical help
- Exhibit depression (mild or severe)
- Exhibit evidence of stress and trauma, such as chronic pain and other illnesses
- Have a sudden change in behaviour

A Potential Abuser May:

- Minimize or deny the abuse has occurred
- Blame the victim for being clumsy or difficult
- Be overly charming and helpful to OR abusive to the professional (e.g., “I’ll call your supervisor,” or “I’ll sue you.”)
- Act loving and compassionate toward the victim in a professional’s presence
- Agree to a plan but never follow through
- Want to be present for all interviews
- Answer for the victim
- Say the victim is incompetent, unhealthy or crazy
- Use the system to their advantage or against the victim by threatening “their rights”
- Threaten suicide
- Prohibit the victim from purchasing needed items
- Turn family members against the victim
- Talk about how good the victim has it, or how ungrateful the victim is
- Threaten to hurt the family pet

(Brandl, 2002)

Recognizing Vulnerable Adults

The most vulnerable members of our society also experience the highest incidence of abuse, neglect and self-neglect. Generally, adults considered to be the most vulnerable include:

- Frail elderly
- Adults with mental illness
- Adults with physical/mobility impairments
- Adults living in poverty
- Adults with cognitive impairments
- Adults with developmental disabilities
- Immigrants (non-English speaking especially)
- Adults with addictions

Women in all categories are more likely to experience abuse than men, and the risk increases with age and level of dependence or disability.

Abuse against vulnerable adults is far less likely to be reported or investigated than abuse against other adults. The risk is higher for vulnerable adults when:

- They are unable to call for help or to protest
- They are dependent upon others
- They have never learned assertiveness
- Many people have access to their homes and bodies
- There is a history of abuse
- They are not believed
- The abuse has not been identified
- They are isolated

OVERVIEW OF THE ADULT GUARDIANSHIP LEGISLATION

The Adult Guardianship Legislation became law on February 28, 2000. Four acts comprise the legislation including the:

- *Representation Agreement Act*
- *Health Care (Consent) and Care Facility (Admission) Act*
- *Adult Guardianship Act*
- *Public Guardian and Trustee Act*

The Adult Guardianship Act applies to all vulnerable adults in VCH's catchment area, whether the abuse, neglect, or self-neglect takes place in a public place, the adult's home, a relative's home, a care facility or any other place, except a correctional centre.

To date, some parts of the legislation have not been proclaimed. For more information on the Adult Guardianship Legislation, visit www.trustee.bc.ca.

Adult Guardianship Act (Part 3)

Purpose

The purpose of part three of the *Adult Guardianship Act* is to provide support and assistance to adults who are:

- Abused, neglected or self-neglecting, *and*
- Unable to seek support and assistance.

Scope

The provisions of the *Adult Guardianship Act* are used **only** for adults who are abused or neglected **and** are unable to access assistance or support by themselves, due to:

- Physical restraint (For example, an adult who is being stopped by force or other physical means from seeking assistance.); or
- Physical disability that limits their ability to seek assistance (The disability could include a lack of mobility, difficulty in communicating, or any other physical restriction that can hinder ability to ask for assistance.); or
- Illness, disease, injury or other condition that affects their ability to make decisions about the abuse or neglect (This might include a mental illness, developmental disability or brain injury.)

Tools Available Through the Adult Guardianship Act

The *Adult Guardianship Act* provides tools to help VCH staff investigate and respond to situations of suspected abuse, neglect and self-neglect of vulnerable adults. These tools include:

- Increased powers to gather information when conducting an inquiry.
- Emergency provisions that may be used even without an adult's agreement, when it is necessary to act immediately in order to save the adult's life, prevent serious physical or mental harm, or protect the adult's assets from significant loss or damage. An emergency intervention must be short-term and deal with the emergency situation only. Emergency provisions may include:
 - Gaining access
 - Providing emergency health care
 - Removing an adult from an unsafe environment
 - Protecting assets by informing the Public Guardian and Trustee (PGT)
 - Protecting the adult from harm using any other measure necessary
- Court orders including:
 - Warrant to enter to conduct an interview
 - Access order
 - Interim restraining order
 - Support and assistance order

! Involve more than one person when making the decision to use emergency provisions. Usually police or PGT assistance will be required.

Vancouver Coastal Health is a Designated Agency

Vancouver Coastal Health is a “designated agency,” under the *Adult Guardianship Act*, legally responsible for receiving reports and inquiring into situations of abuse, neglect and self-neglect of adults, who are unable to seek support and assistance on their own.

VCH Guiding Principles

The VCH response to situations reported under the *Adult Guardianship Act* is guided by the following fundamental principles:

Self Determination and Choice

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 are capable of making decisions.

Most Effective but Least Intrusive Support

All adults receive the most effective, but least restrictive and intrusive, form of support, assistance or protection when they are unable to care for themselves or their assets.

Adults are Presumed Capable

Every adult is presumed capable of making decisions about personal care, health care, legal matters, or their own financial affairs, business or assets, until the contrary is demonstrated through assessment procedures.

An adult’s way of communicating with others is not grounds for deciding that he or she is incapable of making decisions. When appropriate, you may need to use an interpreter or special equipment to communicate.

Court is a Last Resort

VCH will make every attempt to provide support and assistance to vulnerable adults without using the tools available through the court system. Any option that removes an adult’s right to make decisions should be considered as a last resort. All other less intrusive options must be considered first.

Vancouver Coastal Health's Responsibility

As a designated agency, VCH **must**:

- Look into all situations of suspected or reported abuse, neglect and self-neglect of vulnerable adults
- Determine if the adult needs support and assistance
- Involve the adult as much as possible
- Report crimes committed against vulnerable adults who are unable to seek support and assistance to the police
- Keep the identity of the person who made the report confidential

! Follow practice guidelines or protocols developed specifically for your program where they are available. See Appendix 3.

Staff Process

When any VCH employee becomes aware of a situation in which a vulnerable adult is suspected of being abused, neglected or is self-neglecting, the employee must:

- Document each step
- Determine if the adult is able to seek support and assistance on his/her own
- Determine the appropriate designated responder¹ to follow up, **and** ensure the referral is made to, and accepted by, the designated responder. A designated responder is the VCH staff member identified as responsible for coordinating abuse and neglect investigations.
- In urgent or emergent situations, ensure the adult is safe and follow emergency procedures
- Keep the identity of the person who made the report confidential

The flow chart in Appendix 2 outlines the process for responding to adult abuse and neglect.

¹ See Designated Responder Contact Sheet, Appendix 1

Designated Responder Process²

- Document each step
- Interview the adult
- Assess the urgency of the situation
- Coordinate the collection of collateral information
- Coordinate the assessment of abuse, neglect and self-neglect
- Coordinate the assessment of the adult's ability to seek/refuse support and assistance
- Determine if the adult has a representative, committee or Power of Attorney
- Coordinate the development of a care plan to provide support and assistance
- Advise the most responsible physician of the situation and actions taken
- Make reports as necessary to the Public Guardian and Trustee to safeguard the adult's assets
- Report crimes committed against vulnerable adults who are unable to seek support and assistance to the police
- Keep the identity of the person who made the report confidential

When an Adult Declines the Care Plan

Continue with all the above steps, **plus:**

- Consider the reasons why the support and assistance was declined
- Coordinate the supports and assistance that will be accepted
- Reassess the level of risk to the adult and assets
- Consult with the program manager, practice consultant, or adult abuse and neglect response resource
- Consider using legal tools to protect the adult/assets
- Consider using emergency provisions to protect the adult/assets
- Put the *recommended* care plan and rationale in writing, and give it to the person responsible for implementation
- Document the reasons why the care plan was declined
- Have a clear plan for following up and monitoring the situation

✂ Tools:

- › *Power to investigate*
- › *Emergency provisions*
- › *Warrant to enter*
- › *Access order*
- › *Interim restraining order*
- › *Support and assistance order*

² Follow practice guidelines or protocols developed specifically for your program where they are available. See Appendix 3.

Cross-Sectoral Involvement

Many adults will be involved with more than one sector of the health care system during an inquiry. When a designated responder in one sector identifies that another sector is, or needs to be, involved with a case, the original designated responder will:

- Ensure the designated responder in the other sector is informed of the situation
- Determine who will take lead responsibilities for investigation and follow up
- Provide full documentation to the new designated responder
- Not “hand off” an investigation until another designated responder has taken responsibility

An adult may move from the community to acute care and then to residential care during an investigation.

Completing an Inquiry

Once all actions have been documented, a designated responder may terminate an inquiry when further intervention is not indicated for one of the following reasons:

- There is no evidence of abuse, neglect or self-neglect
- The adult is capable of making decisions related to the abuse, neglect or self-neglect
- Supports and assistance have been implemented, reducing the adult’s risk

PHYSICAL, SEXUAL AND PSYCHOLOGICAL ABUSE

Abuse includes the deliberate mistreatment of an adult that causes:

- Physical, mental or emotional harm, or
- Damage to or loss of assets,

Abuse includes intimidation, humiliation, physical assault, sexual assault, over medication, withholding needed medication, censoring mail, invasion or denial of privacy, or denial of access to visitors.

Physical Abuse

Physical abuse involves any deliberate act of violence, rough treatment, or use of physical force for coercion, including assault, sexual assault, and physical restraint.

Sexual Abuse

Sexual abuse involves any sexual behaviour directed toward an adult without that adult's full knowledge and consent, including sexual harassment, non-consensual sexual touching, and using pornography.

Psychological or Emotional Abuse

Psychological or emotional abuse involves any act that diminishes an adult's sense of identity, dignity and self-worth, including confinement, isolation, verbal assault, humiliation, intimidation and infantilization.

Indicators of Physical and Sexual Abuse

- Bruises, black eyes
- Welts, rope marks
- Swelling
- Broken assistive devices (glasses, dentures, canes)
- Lacerations
- Punctures
- Untreated injuries in various stages of healing
- Adult's report of being abused
- Fractures, sprains, dislocations
- Restricted movement
- Repeated falls
- Internal injuries
- Burns
- Pain, itching or bruises around breasts or genital area
- Torn, stained or bloody underclothing
- Venereal disease
- Genital infections
- Vaginal/anal bleeding

Continuum of Abuse*

- Pinching, squeezing
- Pushing, shoving, restraining
- Jerking, shaking, pulling
- Shaking causing bruising
- Slapping, biting, hair pulling
- Hitting, punching, kicking, choking
- Forced sexual activity
- Forced feeding of undesired food and medications
- Throwing objects at the adult
- Throwing the adult onto a bed or chair, etc.
- Lacerations that require stitches
- Use of weapons
- Broken bones, internal injuries
- Disabling, disfiguring
- Death

* source: British Columbia Coalition to Eliminate Abuse of Seniors fact sheet #2

Staff Responsibilities

Abuse by a VCH Employee

When an employee becomes aware of an abusive situation, and the alleged abuser is another employee, the report should be immediately directed to the manager responsible for that area of operations. The manager will liaise with the VCH Director of Client Relations and Risk Management and/or the Community Care & Assisted Living Licensing Officer, as appropriate.

All staff have responsibilities under the Adult Guardianship Act.

The *Adult Guardianship Act* applies to adults living in all places other than a correctional centre.

Abuse of a Capable Adult

When an employee becomes aware of an abusive situation, and the adult is considered **capable** of seeking support and assistance, you may choose any of the following actions:

Capable adults have the right to decide to live in abusive situations, even if it means they are living at risk of being harmed.

- Offer support and assistance
- Refer the adult to support services
- Provide treatment for any injuries
- Follow the domestic violence protocol

Abuse of a Vulnerable Adult

When any VCH employee becomes aware of a situation in which a vulnerable adult is suspected of being physically abused, the employee must:

! Follow practice guidelines or protocols developed specifically for your program where they are available. See Appendix 3.

- Document each step
- Determine if the adult is able to seek support and assistance on his/her own
- Determine the appropriate designated responder³ to follow up, **and** ensure the referral is made to, and accepted by, the designated responder. A designated responder is the VCH staff member identified as responsible for coordinating abuse and neglect investigations.
- In urgent or emergent situations, ensure the adult is safe and follow emergency procedures
- Keep the identity of the person who made the report confidential

³ See Designated Responder Contact Sheet, Appendix 1

Designated Responder Process⁴

- Document each step
- Interview the adult
- Assess the urgency of the situation
- Coordinate the collection of collateral information
- Coordinate the assessment of abuse, neglect and self-neglect
- Coordinate the assessment of the adult's ability to seek/refuse support and assistance
- Determine if the adult has a representative, committee or Power of Attorney
- Coordinate the development of a care plan to provide support and assistance
- Advise the most responsible physician of the situation and actions taken
- Make reports as necessary to the Public Guardian and Trustee to safeguard the adult's assets
- Report crimes committed against vulnerable adults who are unable to seek support and assistance to the police
- Keep the identity of the person who made the report confidential

Cross-Sectoral Involvement

Many adults will be involved with more than one sector of the health care system during an inquiry. When a designated responder in one sector identifies that another sector is, or needs to be, involved with a case, the original designated responder will:

- Ensure the designated responder in the other sector is informed of the situation
- Determine who will take lead responsibilities for investigation and follow up
- Provide full documentation to the new designated responder
- Not "hand off" an investigation until another designated responder has taken responsibility

An adult may move from the community to acute care and then to residential care during an investigation.

⁴ Follow practice guidelines or protocols developed specifically for your program where they are available. See Appendix 3.

Assessment

Who Does the Assessment?

In most situations, an assessment requires a multidisciplinary approach. It is the designated responder's responsibility to coordinate the assessment of abuse and the adult's ability to seek support and assistance. The designated responder may request a neuropsychological assessment, and/or further work-up by a family physician, psychiatrist, geriatrician, occupational therapist, community mental health team, or any other professional.

Assessing a Vulnerable Adult for Abuse

- Gaining access to an adult may be difficult, but try to meet the patient alone
- Be observant of physical surroundings and the adult's condition
- Denial in itself should not end an inquiry; adults often protect family members
- Shame and fear of retaliation may be barriers to disclosure
- Establishing a trusting relationship takes time, often several visits
- Reassure the adult (i.e., "You are not alone," "You are not to blame.")
- Collect collateral information from trusted sources
- Review medical record for any history of suspicious injuries
- Begin with general questions and then move to more specific ones

Interview Screening Questions

- Has anyone at home ever hurt you?
- Has anyone ever touched you without your consent?
- Has anyone ever made you do things you didn't want to do?
- Has anyone threatened you?
- Are you afraid of anyone at home?
- Are you alone a lot?
- Explain to me how you received these injuries.
- If someone were harming you, what would you do?

Assessing a Caregiver for Abusive Behaviour

- Be cautious when interviewing a suspected abuser, and assess your own safety first
- Consider having another professional with you as a witness and to ensure safety
- Consider that the caregiver interview might best be left to the police in situations where criminal offences are suspected
- Be aware that the assessment may alarm the abuser and expose the adult to greater risk
- Avoid confrontation
- Use an empathetic and non-judgmental approach
- Identify specific factors that can cause stress to a caregiver, and add comments and questions (i.e., “Caring for your wife now that she is incontinent can be a burden. How are you managing?”)

Indicators of Caregiver Abuse

The caregiver:

- Has behavioural problems
- Is financially dependent
- Has mental/emotional difficulties
- Has alcohol/substance use problem
- Has unrealistic expectations
- Is a blamer
- Lacks understanding of the adult’s medical condition
- Shows reluctance to caregiving
- Has marital/family conflict
- Has poor current relationship
- Has a poor past relationship

Screening Questions for Caregiver Abuse

() *Indicate the name of the vulnerable adult*

- Do you sometimes have trouble making () control his/her temper or aggression?
- Do you often feel you are being forced to act out of character, or do things you feel bad about?
- Do you find it difficult to manage ('s) behaviour?
- Do you sometimes feel that you are forced to be rough with ()?
- Do you sometimes feel you can't do what is really necessary or what should be done for ()?
- Do you often feel you have to reject or ignore ()?
- Do you often feel so tired and exhausted that you cannot meet ('s) needs?
- Do you often feel you have to yell at ()?

(Reis-Nahmiash, CASE)

Assessing an Adult's Ability to Seek/Refuse Support

- An assessment is indicated when an adult appears:
 - Confused
 - To fluctuate and is inconsistent
 - To have poor short term memory
 - Depressed
- All incapability assessments should include an assessment of:
 - Cognitive function
 - Executive dysfunction
- An assessment should be focused on the adult's ability to make a specific decision and does not imply a global finding of incapability
- To make a decision, the adult must be able to receive, assimilate and integrate the relevant information; evaluate benefits and risks; and understand the implications of a decision (Cooney et al, 2004)
- To be capable, the adult must also be able to carry out the decision
- Use the multidisciplinary team for a comprehensive assessment
- See Assessment Tools in Section 7

Assessing Cognitive Function

Tools for assessing cognitive function include the *Mini Mental State Exam* (MMSE) and the *Modified Mini Mental State Exam* (3MS) to:

- Assess memory and orientation
- Screen other cognitive processes including construction, abstract thinking (3MS), sequencing and visual-motor processing

A score of <24/30 (MMSE) & <78/100 (3MS) indicates dementia. However, with vascular disease, head injury and other processes, an adult with a score of 100% may still have significant deficits in executive (frontal) cognitive functioning, rendering the adult incapable of following through to seek support and assistance.

Administering this screening tool is a useful clinical interview tactic to evaluate the adult's thinking and approach to problem solving. If short-term memory is impaired, the adult cannot evaluate day-to-day events or remember they decided to ask for help. For complex cases, neuropsychological testing may be necessary to clarify cognitive and executive function disabilities.

✦ Tools:

MMSE or 3MS (Modified Mini Mental State Exam) and Clock Drawing. See Section 7, Assessment Tools.*

Assessing Executive Dysfunction

- Executive cognitive processes include:
 - Planning
 - Active problem solving
 - Anticipation of an intended action
 - Initiation of activity
 - Ability to carry out a decision
 - Inhibition of inappropriate behaviour
 - Capacity to monitor the effectiveness of one's behaviour
- Self-report by an adult with suspected cognitive and executive dysfunction must be validated by reliable collateral information
- Adults with executive dysfunction have problems with judgment and trusting appropriate people for assistance
- Adults with executive dysfunction may be influenced by individuals who might take advantage of them
- Intact executive function is instrumental to the adult being able to seek support and assistance
- Any change from baseline functioning is abnormal and indicates that an underlying physical, cognitive or psychiatric illness is present
- The following assessment should be performed by specialized VCH staff either within the hospital or community:
 - The ability to initiate, organize, and carry out Instrumental and Basic Activities of Daily Living (IADL/BADL) is imperative in assessing an adult's ability to seek or refuse support and assistance (See Lawton and Brody IADL Scale in section 7, which can serve as an interview tool or be given to the caregiver to complete and report back.)
 - Determine areas of self-deficit that are not being provided for in the existing living environment

✂ Tools*:

- › 3MS
- › Quick Assessment Guide
- › Frontal Behavioural Inventory
- › Lawton & Brody IADL Scale
- › *Available in Section 7

Developing a Care Plan

When an adult is assessed as **incapable** of seeking or refusing support and assistance, **and** there is evidence of physical, sexual and/or psychological abuse, any intervention will be guided by a comprehensive assessment of the adult, the caregiver, the abuser and the urgency of the situation.

- Report facts to the police and coordinate a response/intervention⁵
- Notify/consult with the most responsible physician
- Involve the adult as much as possible and consider his/her values, beliefs, preferences and pre-morbid lifestyle and choices
- Work with an alternate decision maker or representatives to create a treatment plan that addresses the adult's safety
- Consider arranging/coordinating supports and services to reduce isolation, dependence or caregiver stress if applicable
- Consider removing the adult to a place of safety (i.e., a transition house, respite bed, or home of a trusted family member or friend) using the emergency provisions outlined on page 6.
- Consider using the legal tools available under the *Adult Guardianship Act* to ensure the adult's safety
- Consider other legislative options

✖ Tools:

- › *Power to investigate*
- › *Emergency provisions*
- › *Warrant to enter*
- › *Access order*
- › *Interim restraining order*
- › *Support and assistance order*

⁵ It is mandatory to report facts to the police when there is reason to believe that a criminal offence has been committed against an adult who fits the scope of the *Adult Guardianship Act*.

Legislative Options

Consider using other relevant legislation and mechanisms to support and protect an adult, including:

Mental Health Act

Involuntary admission to a psychiatric facility may be considered under the *Mental Health Act* (s.22 (3)), when an adult has a mental disorder and in the opinion of a physician:

- (i) Requires treatment in or through a designated facility,
- (ii) Requires care, supervision and control in or through a designated facility to prevent substantial mental or physical deterioration, or for their own protection or the protection of others, and
- (iii) Cannot suitably be admitted as a voluntary patient.

For more information on the *Mental Health Act*, visit the website:

http://www.qp.gov.bc.ca/statreg/stat/M/96288_01.htm

Representation Agreement Act

Adults may have a representative authorized under the *Representation Agreement Act*, who can be called on to make health care and financial decisions to assist adults considered incapable of seeking/refusing support and assistance on their own.

Adults who do not already have a representative may be able to assign one using a Representation Agreement with Standard Powers, even if they are unable to make a traditional contract or manage their own affairs. A representative with standard powers can make arrangements for home support, where an adult will live and with whom, among other things. See Appendix 4.

For more information visit the following websites:

www.rarc.ca

http://www.qp.gov.bc.ca/statreg/stat/R/96405_01.htm

✂ Tools:

- › *Adult Guardianship Act*
- › *Mental Health Act*
- › *Representation Agreement Act*
- › *Health Care Consent Act*
- › *Protective and Restraining Orders*
- › *Criminal Code of Canada*
- › *Patients Property Act*

Health Care Consent Act

In the event an adult is unconscious, mentally incapable, or otherwise unable to give consent to health care treatment, the *Health Care Consent Act* sets out procedures to follow. In deciding whether an adult is incapable of making health care decisions, a health care provider must determine whether the adult understands the health care information given by the provider, and that this information applies to their situation.

For example, the *Health Care Consent Act* may be used to gain the authority to provide health care to a vulnerable adult who has been neglecting himself or herself.

For more information see:

Guidelines to Special Consent Situations (on the VCH Intranet) at <http://www.trustee.bc.ca/HCC.pdf>

Protective and Restraining Orders

A variety of orders may be sought to keep a suspected abuser away from a vulnerable adult, including a Peace Bond, a Civil Restraining Order, or a Restraining Order under the *Family Relations Act*, and an Interim Restraining Order under the *Adult Guardianship Act*. Consult with your local police liaison regarding use of these orders.

Criminal Code of Canada

Report to or consult the police whenever there is evidence a crime has been committed against a vulnerable adult who fits within the scope of the *Adult Guardianship Act*. Some sample offences include, but are not limited to:

- Sexual exploitation of people with disabilities (s.153.1 (1))
- Incest (s.155 (1))
- Criminal harassment (s.264.1 (1))
- Uttering threats (s.264.1 (2))
- Assault (s. 267)
- Sexual assault (s. 271)
- Intimidation (s.423)
- Negligence (there is a duty to provide the necessities of life (s. 215 (1))
- Theft (322 (1))
- Theft by a person holding Power of Attorney (s.331), and theft or forgery of a credit card (s. 342 (1))
- Misappropriation of money held under direction (s.322 (1))
- Extortion (s. 346 (1))
- Forgery (s. 366 (1))

✂ Tools:

- › *Adult Guardianship Act*
- › *Mental Health Act*
- › *Representation Agreement Act*
- › *Health Care Consent Act*
- › *Protective and Restraining Orders*
- › *Criminal Code of Canada*
- › *Patients Property Act*

Patients Property Act

When an incapable adult is abused and requires someone to help them manage their financial or personal affairs to protect them from further harm, it may be worthwhile to explore options under the Patients Property Act.

A **Committee of Estate** assumes full responsibility for the financial and legal affairs of an adult who is incapable of managing his/her own finances. There are two ways authority can be obtained under the *Patients Property Act*:

- A Committee of Estate may be appointed through a court order. Any capable adult, including a family member, friend, trust company representative, or the Public Guardian and Trustee, may apply to become a Committee of Estate. A private application requires a court hearing and the opinion of two physicians stating that the adult is incapable of managing his or her affairs.
- If there is no appropriate alternative, the Public Guardian and Trustee may become the Committee of Estate, through a process where the director of a mental health facility, or the head of psychiatry in an acute care setting, issues a *Certificate of Incapability*. Vancouver Coastal Health has designated programs with the authority to issue Certificates of Incapability. See your local guidelines or go to Practice Guidelines for Certificate of Incapability Assessments at www.trustee.bc.ca/CI%20Package.pdf.

A **Committee of Person** may also be applied for under the *Patients Property Act*. A Committee of Person assumes responsibility for all personal issues, including where the adult lives and health care decisions. A private application for a Committee of Person requires a court hearing and the opinion of two physicians stating that the adult is:

- Incapable of managing himself or herself (Committee of Person)
- Incapable of managing himself or herself, or his or her affairs (Committee of Estate and Person)

✦ Tools:

- › *Adult Guardianship Act*
- › *Mental Health Act*
- › *Representation Agreement Act*
- › *Health Care Consent Act*
- › *Protective and Restraining Orders*
- › *Criminal Code of Canada*
- › *Patients Property Act*

When an Adult Declines the Care Plan

- Consider the reasons why the support and assistance was declined
- Coordinate the supports and assistance that will be accepted
- Reassess the level of risk to the adult and assets
- Consult with the program manager, practice consultant, or adult abuse and neglect response resource
- Consider using legal tools to protect the adult/assets
- Consider using emergency provisions to protect the adult/assets
- Put the *recommended* care plan and rationale in writing, and give it to the person responsible for implementation
- Document the reasons why the care plan was declined
- Have a clear plan for following up and monitoring the situation

✖ Tools:

- › *Power to investigate*
- › *Emergency provisions*
- › *Warrant to enter*
- › *Access order*
- › *Interim restraining order*
- › *Support and assistance order*

FINANCIAL ABUSE

Financial abuse involves the improper, illegal or unauthorized use of a vulnerable adult's resources for someone else's benefit. It may include, but is not limited to:

- Theft
- Fraud
- Breach of trust
- Coercion
- Misuse of Power of Attorney
- Unauthorized use of credit/debit cards
- Forgery
- Extortion
- Misappropriation of money held under direction

Indicators of Financial Abuse

- Unpaid bills
- Sudden change in lifestyle and living conditions
- No money for basic necessities
- Absence of aids, medications and services
- Refusal to spend money without permission of caregiver
- Sudden appearance of previously uninvolved relatives
- Abrupt changes in wills/accounts
- Sudden accrual of debts
- Forged signature
- Sudden sale or change in property title
- Sudden changes in types and amounts of withdrawals
- Unexplained transfer of funds or large withdrawals
- Power of Attorney granted under unusual circumstances
- Disproportionately high contribution toward household expenses
- Adult complains about not knowing where money/assets have gone
- Family member or representative refuses to spend money on the adult's behalf
- Withdrawal, or threat of withdrawal, of sponsorship for immigrants
- Adult reports financial abuse

Unusual behaviour on the part of family members, friends, acquaintances or caregivers may indicate financial exploitation, such as:

- An unusual interest in the amount of money being spent on the adult's care
- Expressing excessive affection for a wealthy, older person
- New acquaintances expressing gushing, undying affection
- Accompanying person is angry or hostile towards the adult and refuses to provide necessary assistance
- Insisting on a promise of "lifelong care" in exchange for willing or deeding property or a bank account to the caregiver
- Family member/caregiver is evasive about financial arrangement
- Hostility towards interviewers and visitors
- Absence of any visible means of support
- Provision of unnecessary services
- Focus on how much items cost, not whether the elderly person needs them
- Substance abuse, psychological problems
- Spotty work history

(Wisconsin Coalition Against Domestic Violence 1997, 36)

Continuum of Financial Abuse*

- Belief that the adult does not need money or have a future
- Theft of cash, credit cards, bank cards, mail
- Cashing in RRSPs without permission
- Unauthorized use of debit card
- Unpaid loans or repeated borrowing
- Using trickery or persuasion to get money or possessions
- Taking or withholding a pension or insurance cheque
- Borrowing or taking possessions without permission
- Selling property or possessions without permission
- Forcing a change of will or a Power of Attorney
- Misuse of Power of Attorney
- Refusing to pay bills, rent or mortgage
- Forging names or altering documents
- Establishing a joint account and using money without permission
- Theft from accounts in a financial institution
- Taking an adult's money, assets or property as an "early inheritance"
- Forcing an adult to sign over a house or car
- Leaving an adult destitute

* source: British Columbia Coalition to Eliminate Abuse of Seniors fact sheet #4

Staff Responsibilities

Financial Abuse by a VCH Employee

When any employee becomes aware of a situation of financial abuse and the alleged abuser is another employee, the report should be immediately directed to the manager responsible for that area of operations. That manager will liaise with the VCH Director of Client Relations and Risk Management and/or the Community Care & Assisted Living Licensing Officer, as appropriate.

All staff have responsibilities under the Adult Guardianship Act.

The *Adult Guardianship Act* applies to adults living in all places other than a correctional centre.

Financial Abuse of a Capable Adult

When any employee becomes aware of a situation in which an adult is financially abused, and the adult is considered **capable** of seeking support and assistance, the employee may choose to take any of the following steps:

Capable adults have the right to decide to live in abusive situations, even if it means significant loss of property or assets.

- Offer support and assistance
- Refer the adult to relevant community social support services
- Provide the adult with information about ways to protect assets, such as direct deposit/payment, co-signature on accounts, joint bank accounts, setting withdrawal limits, etc.
- Provide the adult with information about arranging a Power of Attorney or a Representation Agreement with a trusted friend or relative

To grant a Power of Attorney the adult must be capable to direct and monitor the attorney

For more information see:

Appendix 4 and 5.

The People's Law School at www.publiclegaled.bc.ca

Representation Agreement Resource Centre at www.rarc.ca

Financial Abuse of a Vulnerable Adult

When any employee becomes aware of a situation in which a vulnerable adult is suspected of being financially abused, the employee must:

- Document each step
- Determine if the adult is able to seek support and assistance on his/her own
- Determine the appropriate designated responder⁶ to follow up, **and** ensure that the referral is made to, and accepted by, the designated responder. A designated responder is the VCH staff member identified as responsible for coordinating abuse and neglect investigations.
- In urgent or emergent situations, ensure the adult is safe and follow emergency procedures
- Keep the identity of the person who made the report confidential

! Follow practice guidelines or protocols developed specifically for your program where they are available. See Appendix 3.

Designated Responder Process⁷

- Document each step
- Interview the adult
- Assess the urgency of the situation
- Refer urgent situations to the Public Guardian and Trustee
- Coordinate the collection of collateral information
- Coordinate the assessment of financial abuse
- Coordinate the assessment of the adult's ability to seek/refuse support and assistance
- Coordinate a financial competency assessment if indicated
- Determine if the adult has a representative, committee or Power of Attorney
- Coordinate the development of a care plan to provide support and assistance
- Advise the most responsible physician of the situation and actions taken
- Report crimes committed against vulnerable adults who are unable to seek support and assistance to the police
- Keep the identity of the person who made the report confidential

! An urgent referral should be made to the Public Guardian and Trustee when there is a pending sale of property or other imminent, irretrievable loss of assets.

⁶ See Designated Responder Contact Sheet, Appendix 1

⁷ Follow practice guidelines or protocols developed specifically for your program where they are available. See Appendix 3.

Cross-Sectoral Involvement

Many adults will be involved with more than one sector of the health care system during an inquiry. When a designated responder in one sector identifies that another sector is, or needs to be, involved with a situation, the original designated responder will:

- Ensure the designated responder in the other sector is informed of the situation
- Determine who will take lead responsibilities for investigation and follow up
- Provide full documentation to the new designated responder
- Not “hand off” an investigation until another designated responder has taken responsibility

An adult may move from the community to acute care and then to residential care during an investigation.

Assessment

Assessing Financial Abuse

The designated responder’s role is to determine if a vulnerable adult is being financially abused, or if his/her assets are at risk due to neglect, and to offer support and assistance.

The designated responder may contact financial institutions to confirm concerns, but is not expected to carry out a detailed financial review.

In order to establish whether there is a risk to the adult’s assets, the designated responder may consult with the adult’s financial institution to:

- Advise the manager a report has been received and apprise him/her of the concern
- Confirm whether the information received is correct, and whether the financial institution has concerns
- Ask whether there are recent unusual or increased transactions in the account

Section 48(2)(b)(iii) of the Adult Guardianship Act gives the designated responder powers to investigate and obtain information from any person that manages the adult’s financial affairs, business or assets.

To gather information from financial institutions, the designated responder may find it useful to:

- Make the initial contact by telephone and request the bank manager
- Identify yourself and explain the reason for the call
- Cite your authority by referring to the *Adult Guardianship Act*, s. 48 (2) (b), s. 62 (1 and 2)
- Follow up as necessary with a letter or fax. You may choose to use the *Form to Request Information*⁸ or, where available, a form developed specifically for your program
- Request confirmation of the concerns raised, rather than requesting balances and other specific financial information.

For example:

- If you are concerned the adult is being coerced into writing large cheques to a certain individual, you might request to confirm large cheques being issued within a certain time frame
- If you are concerned the adult is not paying bills or purchasing needed supplies, you might request confirmation that there are sufficient funds available for those purposes

Assessing an Adult's Ability to Seek/Refuse Support

- An assessment is indicated when an adult appears:
 - Confused
 - To fluctuate and is inconsistent
 - To have poor short term memory
 - Depressed
- All incapability assessments should include an assessment of:
 - Cognitive function
 - Executive dysfunction

⁸ See Appendix 6.

- An assessment should be focused on the adult's ability to make a specific decision and does not imply a global finding of incapability
- To make a decision, the adult must be able to receive, assimilate and integrate the relevant information; evaluate benefits and risks; and understand the implications of a decision (Cooney et al, 2004)
- To be capable, the adult must also be able to carry out the decision
- Use the multidisciplinary team for a comprehensive assessment
- See *Assessment Tools* in Section 7
- The assessment is focused on determining the adult's ability to seek or refuse support and assistance related to the suspected abuse, using the tools available in the *Adult Guardianship Act*
- To determine what other tools and options may be available to assist and protect the adult's assets, an assessment of financial incapability must be completed
- In most cases where an adult's right to make his/her own decisions is being questioned, a physician's opinion is required

Who Does the Assessment?

In most situations, an assessment requires a multidisciplinary approach. It is the designated responder's responsibility to coordinate the assessment of abuse and the adult's ability to seek support and assistance. The designated responder may request a neuropsychological assessment, and/or further work-up by a family physician, psychiatrist, geriatrician, occupational therapist, community mental health team, or any other professional.

Assessing Cognitive Function

Tools for assessing cognitive function include the *Mini Mental State Exam* (MMSE) and the *Modified Mini Mental State Exam* (3MS) to:

- Assess memory and orientation
- Screen other cognitive processes including construction, abstract thinking (3MS), sequencing and visual-motor processing

A score of <24/30 (MMSE) & <78/100 (3MS) indicates dementia. However, with vascular disease, head injury and other processes, an adult with a score of 100% may still have significant deficits in executive (frontal) cognitive functioning, rendering the adult incapable of following through to seek support and assistance.

Administering this screening tool is a useful clinical interview tactic to evaluate the adult's thinking and approach to problem solving. If short-term memory is impaired, the adult cannot evaluate day-to-day events or remember they decided to ask for help. For complex cases, neuropsychological testing may be necessary to clarify cognitive and executive function disabilities.

✳ Tools:

MMSE or 3MS (Modified Mini Mental State Exam) and Clock Drawing. See Section 7, Assessment Tools.*

Assessing Executive Dysfunction

- Executive cognitive processes include:
 - Planning
 - Active problem solving
 - Anticipation of an intended action
 - Initiation of activity
 - Ability to carry out a decision
 - Inhibition of inappropriate behaviour
 - Capacity to monitor the effectiveness of one's behaviour
- Self-report by an adult with suspected cognitive and executive dysfunction must be validated by reliable collateral information
- Adults with executive dysfunction have problems with judgment and trusting appropriate people for assistance
- Adults with executive dysfunction may be influenced by individuals who might take advantage of them
- Intact executive function is instrumental to the adult being able to seek support and assistance
- Any change from baseline functioning is abnormal and indicates that an underlying physical, cognitive or psychiatric illness is present
- The following assessment should be performed by specialized VCH staff either within the hospital or community:
 - The ability to initiate, organize, and carry out Instrumental and Basic Activities of Daily Living (IADL/BADL) is imperative in assessing an adult's ability to seek or refuse support and assistance. (See Lawton and Brody IADL Scale in Section 7, which can serve as an interview tool or be given to the caregiver to complete and report back.)
 - Determine areas of self-deficit that are not being provided for in the existing living environment

✂ Tools*:

- › 3MS
- › Quick Assessment Guide
- › Frontal Behavioural Inventory
- › Lawton & Brody IADL Scale
- › *Available in Section 7

Assessing Understanding of Financial and Legal Affairs

(Source: *PGT Functional and Decision-Making Form*, under the *Patient's Property Act*)

Use the following questions as a guide to determine the adult's financial situation and functional ability to manage his/her financial and legal affairs.

Responses must be confirmed by obtaining collateral information	Assessor's Comments
1. Do you know your income and its sources?	
2. Do you know what regular bills you need to pay?	
3. Do you have any debt?	
4. Do you have any assets?	
5. Do you have investments or property?	
6. Have you ever needed the help of a lawyer? When and for what?	
7. Do you have a Power of Attorney or is anyone else helping you manage your money?	
8. Do you have a will?	
9. Do you have a bank account? Is there anyone else on this account?	
10. Do you have a credit card?	
11. Do you have a pension from work?	
12. How do you get to the bank?	
13. Do you write cheques? Do you use a debit card?	
14. Do you ever run out of money for food or worry about your rent?	
15. Does your family/friend come to you for money?	
16. Do you keep money in your purse/wallet?	
17. Do you give money to charity?	

Developing a Care Plan

When an adult is assessed as **incapable** of seeking/refusing support and assistance **and** there is evidence of financial abuse, any intervention will be guided by a comprehensive assessment of the adult, the caregiver, the abuser, and the urgency of the situation.

- Report facts to the police and coordinate a response/intervention⁹
- Notify/consult with the most responsible physician
- Involve the adult as much as possible, and consider his/her values, beliefs, preferences and pre-morbid lifestyle and choices
- Work with an alternate decision maker or representatives to create a treatment plan that addresses the adult's safety and protects assets
- Consider arranging/coordinating supports and services to reduce the isolation, dependence or caregiver stress if applicable
- Consult with the office of the Public Guardian and Trustee and make referrals as necessary¹⁰
- Consider other legislative options

✦ Tools:

- › *Power to investigate*
- › *Emergency provisions*
- › *Warrant to enter*
- › *Access order*
- › *Interim restraining order*
- › *Support and assistance order*

⁹ It is mandatory to report the facts to the police when the Designated Agency (VCH) has reason to believe that a criminal offence has been committed against an adult who fits the scope of the *Adult Guardianship Act*

¹⁰ See Referral to Public Guardian and Trustee Form Appendix 7.

Legislative Options

Consider using other relevant legislation and mechanisms to support and protect an adult, including:

Power of Attorney

A Power of Attorney is a legal document that gives authority to someone else to make financial and legal decisions. An adult must be capable to assign a Power of Attorney. The document automatically terminates if the adult is declared incapable *unless* it is an Enduring Power of Attorney, in which case it remains valid.

It is important to know if an incapable adult has previously assigned a Power of Attorney and if it contains the enduring clause, as they can be very useful tools in protecting the adult's assets once the adult is no longer capable.

Alternatively, in the event the suspected abuser has Power of Attorney, and the document does not contain the enduring clause, a declaration of incapability (usually by a physician) will render the abuser's powers null and void.

Investigation of abuse of a Power of Attorney should be referred to the Public Guardian and Trustee. Confirmed abuse of a Power of Attorney should be reported to the police.

✂ Tools:

- › *Adult Guardianship Act*
- › *Power of Attorney*
- › *Representation Agreement*
- › *Pension Trustee*
- › *Patient's Property Act*
- › *Criminal Code of Canada*

Representation Agreement Act

Adults may have a representative authorized under the *Representation Agreement Act*, who can be called on to take measures to protect assets and make financial decisions, when adults are considered incapable of seeking/refusing support and assistance on their own.

Adults who do not already have a representative may be able to assign one using a *Representation Agreement with Standard Powers*, even if they are unable to make a traditional contract or manage their own affairs. A representative with standard powers can make arrangements for routine financial and legal matters, among other things. See Appendix 4.

For more information go to:

www.rarc.ca

http://www.qp.gov.bc.ca/statreg/stat/R/96405_01.htm

Pension Trustee

When vulnerable adults are being financially exploited and require protection, it may be useful to have a friend, relative or agency apply to be a trustee of federal benefits Old Age Security (OAS) Canada Pension Plan (CPP). A trustee agrees to administer and spend the benefits in the best interests of the adult and to keep records of the accounts. In order to become trustee of federal benefits, one physician needs to complete a *Certificate of Incapability* form (See Appendix 8). A pension trustee is only authorized to manage monies paid through federal income security programs, not to manage other income or assets.

For more information go to:
Appendix 9

✂ Tools:

- › *Adult Guardianship Act*
- › *Power of Attorney*
- › *Representation Agreement*
- › *Pension Trustee*
- › *Patient's Property Act*
- › *Criminal Code of Canada*

Patients Property Act

When an incapable adult is abused and requires someone to help them manage their financial or personal affairs to protect them from further harm, it may be worthwhile to explore options under the Patients Property Act.

A **Committee of Estate** assumes full responsibility for the financial and legal affairs of an adult who is incapable of managing his/her own finances. There are two ways authority can be obtained under the *Patients Property Act*.

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- If there is no appropriate alternative, the Public Guardian and Trustee may become the Committee of Estate, through a process where the director of a mental health facility, or the head of psychiatry in an acute care setting, issues a *Certificate of Incapability*. Vancouver Coastal Health has designated programs with the authority to issue Certificates of Incapability. See your local guidelines or go to Practice Guidelines for Certificate of Incapability Assessments at www.trustee.bc.ca/CI%20Package.pdf.

A **Committee of Person** may also be applied for under the *Patients Property Act*. A Committee of Person assumes responsibility for all personal issues, including where the adult lives and health care decisions. A private application for a Committee of Person requires a court hearing and the opinion of two physicians stating that the adult is:

- Incapable of managing himself or herself (Committee of Person)
- Incapable of managing himself or herself, or his or her affairs (Committee of Estate and Person)

Criminal Code of Canada

Report to or consult the police whenever there is evidence a crime has been committed against a vulnerable adult who fits within the scope of the *Adult Guardianship Act*. Some sample offences include, but are not limited to:

- Negligence (there is a duty to provide the necessities of life (s. 215 (1))
- Theft (322 (1))
- Theft by a person holding Power of Attorney (s.331)
- Theft, forgery of a credit card (s. 342 (1))
- Theft by a person require to account (s. 330 (1))
- Misappropriation of money held under direction (s.322 (1))
- Criminal breach of trust (s. 336))
- Destroying title documents (s. 340)
- False pretence (ss. 361 – 365)
- Extortion (s. 346 (1))
- Forgery (s. 366 (1))

✂ Tools:

- › *Adult Guardianship Act*
- › *Power of Attorney*
- › *Representation Agreement*
- › *Pension Trustee*
- › *Patient's Property Act*
- › *Criminal Code of Canada*

When an Adult Declines the Care Plan

- Consider the reasons why the support and assistance was declined
- Coordinate the supports and assistance that will be accepted
- Reassess the level of risk to the adult and assets
- Consult with the program manager, practice consultant, or adult abuse and neglect response resource
- Consider using legal tools to protect the adult/assets
- Consider using emergency provisions to protect the adult/assets
- Put the *recommended* care plan and rationale in writing, and give it to the person responsible for implementation
- Document the reasons why the care plan was declined
- Have a clear plan for following up and monitoring the situation

✘ Tools:

- › *Power to investigate*
- › *Emergency provisions*
- › *Warrant to enter*
- › *Access order*
- › *Interim restraining order*
- › *Support and assistance order*

NEGLECT AND SELF-NEGLECT

Neglect

Neglect involves the failure to provide necessary care, assistance, guidance or attention, which causes the person, or is reasonably likely to cause, physical, mental or emotional harm, or substantial damage to or loss of assets.

Self-Neglect

Self-neglect involves any failure by an adult to take care of him or herself, which 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, and includes:

- Living in grossly unsanitary conditions
- Suffering from an untreated illness, disease or injury
- Suffering from malnutrition to such an extent that, without an intervention, the adult's physical or mental health is likely to be severely impaired
- 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
- Suffering from an illness, disease or injury that results in the adult dealing with his or her assets in a manner that is likely to cause substantial damage to or loss of assets

Indicators of Neglect/Self-Neglect

- Malnourished
- Emaciated
- Dehydrated
- Confused
- Inappropriate clothing
- Squalor
- Under/over medicated
- Absence of required hearing, visual, mobility aids
- Skin sores
- Malodorous
- No follow through on medical services

Staff Responsibilities

When any VCH employee becomes aware of a situation in which a vulnerable adult is suspected of being neglected or is self-neglecting, the employee must:

- Document each step
- Determine if the adult is able to seek support and assistance on his/her own
- Determine the appropriate designated responder¹¹ to follow up, **and** ensure that the referral is made to, and accepted by, the designated responder. A designated responder is the VCH staff member identified as responsible for coordinating abuse and neglect investigations.
- In urgent or emergent situations, ensure the adult is safe and follow emergency procedures
- Keep the identity of the person who made the report confidential

! Follow practice guidelines or protocols developed specifically for your program where they are available. See Appendix 3.

Designated Responder Process¹²

- Document each step
- Interview the adult
- Assess the urgency of the situation
- Coordinate the collection of collateral information
- Coordinate the assessment of neglect and self-neglect
- Coordinate the assessment of the adult's ability to seek/refuse support and assistance
- Determine if the adult has a representative, committee, or Power of Attorney
- Coordinate the development of a care plan to provide support and assistance
- Advise the most responsible physician of the situation and actions taken
- Make reports as necessary to the Public Guardian and Trustee to safeguard the adult's assets
- Report crimes committed against vulnerable adults who are unable to seek support and assistance to the police
- Keep the identity of the person who made the report confidential

¹¹ See Designated Responder Contact Sheet, Appendix 1

¹² Follow practice guidelines developed or protocols developed specifically for your program where they are available. See Section 8, Appendix 3

Cross-Sectoral Involvement

Many adults will be involved with more than one sector of the health care system during an inquiry. When a designated responder in one sector identifies that another sector is, or needs to be, involved with a situation, the original designated responder will:

- Ensure the designated responder in the other sector is informed of the situation
- Determine who will take lead responsibilities for investigation and follow up
- Provide full documentation to the new designated responder
- Not “hand off” an investigation until another designated responder has taken responsibility

An adult may move from the community to acute care and then to residential care during an investigation.

Assessment

Assessing a Vulnerable Adult for Neglect/Self-Neglect

- Gaining access to an adult may be difficult, but try to meet the patient alone
- Be observant of physical surroundings and the adult’s condition
- Denial in itself should not end an inquiry; adults often protect family members
- Shame and fear of retaliation may be barriers to disclosure
- Begin with general questions and then move to more specific ones
- Establishing a trusting relationship takes time, often several visits
- Reassure the adult (i.e., “You are not alone,” “You are not to blame.”)
- Collect collateral information from trusted sources
- Review medical record for any history of suspicious injuries

Assessing an Adult's Ability to Seek/Refuse Support

- An assessment is indicated when an adult appears:
 - Confused
 - To fluctuate and is inconsistent
 - To have poor short term memory
 - Depressed
- All incapability assessments should include an assessment of:
 - Cognitive function
 - Executive dysfunction
- An assessment should be focused on the adult's ability to make a specific decision and does not imply a global finding of incapability
- To make a decision, the adult must be able to receive, assimilate and integrate the relevant information; evaluate benefits and risks; and understand the implications of a decision (Cooney et al, 2004)
- To be capable, the adult must also be able to carry out the decision
- Use the multidisciplinary team for a comprehensive assessment
- See Assessment Tools in Section 7

Assessing Cognitive Function

Tools for assessing cognitive function include the *Mini Mental State Exam* (MMSE) and the *Modified Mini Mental State Exam* (3MS) to:

- Assess memory and orientation
- Screen other cognitive processes including construction, abstract thinking (3MS), sequencing and visual-motor processing

A score of <24/30 (MMSE) & <78/100 (3MS) indicates dementia. However, with vascular disease, head injury and other processes, an adult with a score of 100% may still have significant deficits in executive (frontal) cognitive functioning, rendering the adult incapable of following through to seek support and assistance.

Administering this screening tool is a useful clinical interview tactic to evaluate the adult's thinking and approach to problem solving. If short-term memory is impaired, the adult cannot evaluate day-to-day events or remember they decided to ask for help. For complex cases, neuropsychological testing may be necessary to clarify cognitive and executive function disabilities.

✂ Tools:

MMSE or 3MS (Modified Mini Mental State Exam) and Clock Drawing. See Section 7, Assessment Tools.*

Assessing Executive Dysfunction

- Executive cognitive processes include:
 - Planning
 - Active problem solving
 - Anticipation of an intended action
 - Initiation of activity
 - Ability to carry out a decision
 - Inhibition of inappropriate behaviour
 - Capacity to monitor the effectiveness of one's behaviour
- Self-report by an adult with suspected cognitive and executive dysfunction must be validated by reliable collateral information
- Adults with executive dysfunction have problems with judgment and trusting appropriate people for assistance
- Adults with executive dysfunction may be influenced by individuals who might take advantage of them
- Intact executive function is instrumental to the adult being able to seek support and assistance
- Any change from baseline functioning is abnormal and indicates that an underlying physical, cognitive or psychiatric illness is present
- The following assessment should be performed by specialized VCH staff either within the hospital or community:
 - The ability to initiate, organize, and carry out Instrumental and Basic Activities of Daily Living (IADL/BADL) is imperative in assessing an adult's ability to seek or refuse support and assistance. (See Lawton and Brody IADL Scale in section 7, which can serve as an interview tool or be given to the caregiver to complete and report back.)
 - Determine areas of self-deficit that are not being provided for in the existing living environment

! Self-Neglect occurs when an adult's actual performance in IADL/BADL is deficient, putting them at risk: they lack insight, and do not have, or refuse, appropriate help to maintain health, safety and quality of life.

Developing a Care Plan

When an adult is assessed as **incapable** of seeking or refusing support and assistance, **and** there is evidence of neglect or self-neglect, any intervention will be guided by a comprehensive assessment of the adult, the caregiver, and the urgency of the situation.

- Report facts to the police and coordinate a response/intervention¹³
- Notify/consult with the most responsible physician
- Involve the adult as much as possible and consider his/her values, beliefs, preferences and pre-morbid lifestyle and choices
- Work with an alternate decision maker or representatives to create a treatment plan that addresses the adult's safety
- Consider arranging/coordinating supports and services to reduce isolation, dependence or caregiver stress if applicable
- Consider removing the adult to a place of safety (i.e., a transition house, respite bed, or home of a trusted family member or friend) using the emergency provisions outlined on page 6
- Consider using the legal tools available under the *Adult Guardianship Act* to ensure the adult's safety
- Consider other legislative options

✂ Tools:

- › *Power to investigate*
- › *Emergency provisions*
- › *Warrant to enter*
- › *Access order*
- › *Interim restraining order*
- › *Support and assistance order*

¹³ It is mandatory to report facts to the police when there is reason to believe that a criminal offence has been committed against an adult who fits the scope of the *Adult Guardianship Act*.

Legislative Options

Consider other relevant legislation and mechanisms to support and protect an adult, including:

Power of Attorney

A Power of Attorney is a legal document that gives authority to someone else to make financial and legal decisions. An adult must be capable to assign a Power of Attorney. The document automatically terminates if the adult is declared incapable *unless* it is an Enduring Power of Attorney, in which case it remains valid.

An attorney with enduring powers may make arrangements for services to support a self-neglecting adult. A Power of Attorney does not have authority to make health care decisions but may access the adult's funds to provide supports that are in the adult's best interests.

Representation Agreement Act

Adults may have a representative authorized under the *Representation Agreement Act*, who can be called on to make health care and financial decisions to help adults considered incapable of seeking/refusing support and assistance on their own.

Adults who do not already have a representative may be able to assign one using a Representation Agreement with Standard Powers, even if they are unable to make a traditional contract or manage their own affairs. A representative with standard powers may make arrangements for home support, where an adult will live and with whom, among other things. See Appendix 5.

For more information visit the following websites:

www.rarc.ca

http://www.qp.gov.bc.ca/statreg/stat/R/96405_01.htm

✂ Tools:

- › *Adult Guardianship Act*
- › *Power of Attorney*
- › *Representation Agreement*
- › *Pension Trustee*
- › *Health Care Consent Act*
- › *Criminal Code of Canada*
- › *Patient's Property Act*

Pension Trustee

When vulnerable adults are being financially exploited and require protection, it may be useful to have a friend, relative or agency apply to be a trustee of federal benefits Old Age Security (OAS) Canada Pension Plan (CPP). A trustee agrees to administer and spend the benefits in the best interests of the adult and to keep records of the accounts. In order to become trustee of federal benefits, one physician needs to complete a *Certificate of Incapability* form (See Appendix 8). A pension trustee is only authorized to manage monies paid through federal income security programs, not to manage other income or assets.

For more information go to:
Appendix 9

Health Care Consent Act

In the event that an adult is unconscious, mentally incapable, or otherwise unable to give consent to health care treatment, the *Health Care Consent Act* sets out procedures to follow. In deciding whether an adult is incapable of making a health care decision, the health care provider must determine whether the adult understands the health care information given by the provider, and that this information applies to their situation.

For example, the *Health Care Consent Act* may be used to gain the authority to provide health care to a vulnerable adult who has been neglecting himself or herself.

For more information see:
Guidelines to Special Consent Situations (VCH Intranet)
<http://www.trustee.bc.ca/HCC.pdf>

Criminal Code of Canada

Report to or consult the police whenever there is evidence a crime has been committed against a vulnerable adult who fits within the scope of the *Adult Guardianship Act*. Some sample offences include, but are not limited to:

- Duty of person to provide the necessities of life (s. 215(1))
- Criminal negligence (s. 219 (1))

✂ Tools:

- › *Adult Guardianship Act*
- › *Power of Attorney*
- › *Representation Agreement*
- › *Pension Trustee*
- › *Health Care Consent Act*
- › *Criminal Code of Canada*
- › *Patient's Property Act*

Patients Property Act

When an incapable adult is neglected or is self-neglecting, and requires someone to help them manage their financial or personal affairs to protect them from further harm, it may be worthwhile to explore the committee option.

A **Committee of Estate** assumes full responsibility for the financial and legal affairs of an adult who is incapable of managing his/her own finances. There are two ways authority can be obtained under the *Patients' Property Act*.

- A Committee of Estate may be appointed through a court order. Any capable adult, including a family member, friend, trust company representative, or the Public Guardian and Trustee, may apply to become a Committee of Estate. A private application requires a court hearing and the opinion of two physicians stating that the adult is incapable of managing his or her affairs.
- If there is no appropriate alternative, the Public Guardian and Trustee may become the Committee of Estate, through a process where the director of a mental health facility, or the head of psychiatry in an acute setting, issues a *Certificate of Incapability*. Vancouver Coastal Health has designated programs with the authority to issue *Certificates of Incapability*. See your local guidelines and VCH practice guidelines for *Certificate of Incapability* assessments at www.trustee.bc.ca/CI%20Package.pdf

✂ Tools:

- › *Adult Guardianship Act*
- › *Power of Attorney*
- › *Representation Agreement*
- › *Pension Trustee*
- › *Health Care Consent Act*
- › *Criminal Code of Canada*
- › *Patient's Property Act*

A **Committee of Person** may also be applied for under the *Patients' Property Act*. A Committee of Person assumes responsibility for all personal issues, including where the adult lives and health care decisions. A private application for a Committee of Person requires a court hearing and the opinion of two physicians stating that the adult is:

- Incapable of managing himself or herself (Committee of Person)
- Incapable of managing himself or herself, or his or her affairs (Committee of Estate and Person)

When an Adult Declines the Care Plan

- Consider the reasons the support and assistance was declined
- Coordinate the supports and assistance that will be accepted
- Reassess the level of risk to the adult and assets
- Consult with the program manager, practice consultant, or adult abuse and neglect response resource
- Consider using legal tools to protect the adult/assets
- Consider using emergency provisions to protect the adult/assets
- Put the *recommended* care plan and rationale in writing, and give it to the person responsible for implementation
- Document the reasons why the care plan was declined
- Have a clear plan for following up and monitoring the situation

✂ Tools:

- › *Power to investigate*
- › *Emergency provisions*
- › *Warrant to enter*
- › *Access order*
- › *Interim restraining order*
- › *Support and assistance order*

WORKING WITH POLICE

There are many circumstances where VCH staff will need to work closely and collaboratively with the police in your area.

For example, looking into situations of abuse and neglect may lead to safety concerns for staff as well as for a vulnerable adult. Prompt and coordinated action between VCH staff and police may prevent further harm to the adult and ensure safety for the staff.

Section 50 of the Adult Guardianship Act states that Designated Agencies have a duty to report crimes to the police.

Role of the Police

Police are responsible for conducting criminal investigations and determining if a crime has been committed. Police may also attend situations to keep the peace, when there is a risk to the safety of staff or others. Examples of police involvement include:

- Attending emergencies where an adult or the adult's assets require immediate protection from serious harm or loss
- Attending with VCH staff when executing an *Access Order* or *Justice of the Peace Warrant*
- Consulting with the designated responder about high risk situations. For example, the police may have previous reports of violence or other criminal activity that the designated responder should be aware of before proceeding with an inquiry
- Collecting evidence to support a prosecution

Role of Vancouver Coastal Health

When an adult has been assessed as incapable of seeking or refusing support and assistance, and there is reason to believe that a crime has been committed, the *Adult Guardianship Act* states that VCH *must* report the facts to the police. Usually the designated responder¹⁴ will contact the police. Follow the protocol for liaising with police that has been developed specifically for your program/area, if one is available. See Appendix 3.

! Follow practice guidelines or protocols developed specifically for your program where they are available. See Appendix 3.

The designated responder continues to be responsible for providing support and assistance to vulnerable adults, once reports have been made to the police. Follow the *Staff Process* and *Designated Responder Process* described in the section of this manual that corresponds with the type of abuse or neglect the adult has experienced

¹⁴ A designated responder is the VCH staff member identified as responsible for coordinating abuse and neglect investigations. See Appendix 1

