

## Elder Abuse: An Overview of Current Issues and Practice Considerations

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# 1. Introduction

Elder abuse is a huge societal problem, which has not yet received the attention it deserves. It is likely that awareness of the issue will increase over the next few years as more people are impacted by the problem as the population ages. In the 1920's approximately 5% of all adults were over age 65. Today 13.1% of all adults are over 65, and by 2036 it is projected that 24.5% of all adults will be over 65<sup>1</sup>. Given Canada's current population of 34,000,000, approximately 4,454,000 adults in Canada are over age 65.

Experts are agreed that elder abuse is a significant problem, but they are not agreed on the exact prevalence of elder abuse. The percentage of older adults that have been abused varies from study to study due to differences in methodology.<sup>2</sup> Three significant American studies reported estimates of elder abuse and neglect ranging from 1.2 – 5.6% of all older adults.<sup>3</sup> In one well known Canadian study 2008 randomly selected seniors were interviewed. This study found that that 4% of seniors surveyed had experienced one or more types of abuse.<sup>4</sup>

Based on the upper and lower percentages from the three American studies of abuse the number of abused seniors in Canada could be as low of 53,500 or as high as 249,500 individuals. Given how common the problem is, it is important for professionals working with older adults to have a solid knowledge of the topic and of existing resources for clients who are victims of abuse, including an awareness of indicators of abuse, of practice challenges and of resources for elder law practitioners.

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<sup>1</sup> M. Turcotte & G. Schellenberg. *A Portrait of Seniors in Canada. 2006.* (Ottawa: Statistics Canada, 2007).

<sup>2</sup> For example, definitions of abuse vary, as does the period of time captured and the ages of participants.

<sup>3</sup> Cynthia Thomas "The First National Study of Elder Abuse and Neglect: Contrast with Results from Other Studies" [2000] 12 *Journal of Elder Abuse and Neglect*, 1.

<sup>4</sup> E Podeneiks et al, *A National Survey on Abuse of Elderly in Canada.* (Toronto: Ryerson Polytechnical Institute, 1990).

## **2. Definitions of Elder Abuse <sup>5</sup>**

A simple definition of abuse is an action, or deliberate behavior, by a person(s) in a position of trust, such as an adult child, family member, friend or care-giver, that causes an adult physical, emotional or mental harm or damage to, or loss of, assets or property. Contrary to newspaper headlines that highlight random acts of violence, abuse is most often perpetrated by a person in a position of trust or a family member. Also contrary to common belief, elder abuse is typically not a random act but is a systematic use of tactics to gain power and control over the victim. This applies regardless of the type of abuse, the main types being as follows: 1) physical abuse, 2) sexual abuse, 3) emotional abuse, 4) neglect, and 5) financial Abuse.

### ***A. Physical Abuse***

Physical Abuse is the non-accidental use of physical force for coercion, or to inflict bodily harm. Some indicators of physical abuse or mistreatment of older adults include: unexplained cuts, scrapes, bruises; injuries for which explanation does not fit evidence; avoidance of significant family, friend or paid care-giver by older person; history of repeated injury/illness; symmetrical bruising and/or grip marks; delay in seeking treatment; and unhealed sores and/or pressure marks.

### ***B. Sexual Abuse***

Sexual abuse is any kind of sexual interaction with an older adult without his or her full knowledge and consent. At its worst it is assault and rape. Although sexual abuse often overlaps with physical abuse, it has been given its own category because the possibility of sexual abuse of older adults is so rarely considered. Sexual abuse can take place with a confused older adult with dementia, or with confused residents in care facilities where they may be approached by other vulnerable residents, visiting spouses/partners, or occasionally, by care workers. Sexual abuse can also happen to competent seniors by spouses, partners, family members, or trusted people in their lives.

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<sup>5</sup> Definitions used in this section of the paper are excerpts from the “Fact Sheets on Abuse” available from the BC Centre for Elder Advocacy and Support.

### ***C. Emotional Abuse***

Emotional Abuse diminishes an older adult's feelings of self-worth or self-esteem. It includes use of verbal abuse by taunts, threats, put-downs, withdrawal of love and affection, or emotional support by the abuser, over a period of time, affects how an older adult feels and is extremely harmful to his/her well-being. Specific acts include the following:

- Repeated targeted insults
- Opening of personal mail
- Making decisions for a senior without consulting with him/her
- Not allowing friends to visit/discouraging friendships
- Not allowing phone calls from friends
- Blaming the older adult for all faults
- Lying to the older adult
- Shunning
- Threatening violence , retaliation, isolation or placement in a care home
- Putting down older adult's abilities
- Alienating children or grandchildren from older adult

### ***D. Neglect***

Intentional withholding of the necessities of life or failing to provide for basic care would be considered active neglect. Passive neglect occurs when a care-giver is unable to provide a minimum of care due to lack of information, experience or ability. Specific actions, or lack of actions, include the following:

- Lack of attention
- Inadequate clothing
- Poorly maintained living environment
- Lack of food in cupboards
- Withholding nutrition/fluids
- Withholding medical services/treatment
- Insufficient medication
- Negligent health care - i.e. untreated sores, lack of, or dirty bandages

- Abandonment and/or confinement of the older adult

## ***E. Financial Abuse***

Financial abuse includes the misuse of an older adult's funds and assets or obtaining property and funds without that person's knowledge and full consent. In the case of a senior who is not competent, not representing or acting in that person's best interest. The abuser is usually a spouse or partner, family member (often adult child), care-giver, friend, or a trusted person in the senior's life. Financial abuse is very often accompanied by other forms of abuse, such as emotional abuse, physical abuse, or denial of rights. Some examples of financial abuse by perpetrators include the following:

- Theft of cash, credit cards bank cards, mail
- Cashing in RRSP's without permission
- Using the older adult's bank card to withdraw cash from an ATM without permission
- Repeated borrowing
- Withholding an older adult's pension
- Forcing the older adult to change his/her will or to give a Power of Attorney
- Misuse of Power of Attorney
- Forging an older adult's name or altering documents
- Establishing a "joint account" and using the senior's money without his/her knowledge or permission

## **4. The "Who", "How" and "What" of Abuse**

### ***A. Dynamics of Power and Control***

When the public first became aware of elder abuse in the 1970's a common theory was that older adults were abused because of "caregiver stress". Over time research revealed that the stressed caregiver model was inapplicable to most situations. Instead, abuse, neglect and exploitation are typically driven by greed, narcissism and the desire to exercise power and control.<sup>6</sup>

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<sup>6</sup> See, for example, M. Quinn & C. Heisler "The Legal Response to Elder Abuse and Neglect" [2002] 14 Journal of Elder Abuse & Neglect, 61.

Motivation to achieve power and control over the victim of abuse is a driving force behind most types of abuse. There is literature that documents similar dynamics of power and control in abuse situations regardless of whether the abuse is financial abuse, domestic violence or sexual assault.<sup>7</sup> Similarities in the dynamics are as follows:

- Exploiters may target and groom their victims
- Exploiters generally use a stealth campaign of tactics to unduly influence and financially exploit their victims
- Exploiters are often charming manipulators
- Exploiters justify their actions through various excuses
- Victims often appear as willing participants in activities that contradict their beliefs or best interests
- Victims often have trauma reactions and may respond to professionals in ways that impeded an investigation

In order to accurately assess the situation it is necessary to be aware of these dynamics and to consider the relationship between the abuser and the victim within its broader context. Some common tactics used by financial exploiters may seem insignificant if single actions are taken in isolation. However, these individual actions have a tremendous impact on the victim when experienced cumulatively.

## ***B. The Perpetrators***

Studies show that the most common perpetrators of abuse are family members, with neglect being more common than abuse, and abuse by adult children being the second to spousal abuse.<sup>8</sup> For older victims of domestic violence, abuse has often occurred throughout the marriage and has continued into old age. It is often much harder for victims in this situation to disclose the abuse or to leave the marriage. Finances are often an issue and abuse victims commonly fear that they will not be believed if they disclose the abuse after keeping it a secret for years.

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<sup>7</sup> B. Brandl, C. Hesler & L. Steigel “The Parallels Between Undue Influence, Domestic Violence and Sexual Assault” [2005] 17, *Journal of Elder Abuse & Neglect*, 37

<sup>8</sup> M. Lundy & S. Grossman “Elder Abuse: Spouse and Intimate Partner Abuse and Family Violence Among Elders” [2004] 16 *Journal of Abuse and Neglect*, 85.

During the 1970's it was thought that abuse victims were dependent on perpetrators and that this dependence led to the abuse. It is now recognized that, rather than victim being dependent on the perpetrator, abusers are often dependent on victims. For example, adult children who abuse their elderly parents may have a range of problems that lead to dependence such as financial dependence on the elder, substance abuse problems, social isolation, low levels of social support, arrest records, poor employment records, and, in some cases, psycho-pathology and intellectual deficits.<sup>9</sup>

In regard to perpetrators of financial abuse, research shows that a sense of entitlement is commonly a factor. If the perpetrator is an heir to property he or she may justify the behavior as taking an advance from future inheritance or protecting future assets from being spent on care for the older adult. Perpetrators may also believe that they are entitled to reimbursement for caring for the older adult. Perpetrator greed, combined with victim loneliness has been suggested as one of the most critical factors motivating financial abuse.<sup>10</sup>

### ***C. The Impact of Abuse on the Victim***

Research shows that there are common reactions to abuse. While the specific concerns and response of victims varies from situation to situation, there are some commonalities. For example, it is very difficult for many victims to disclose the abuse. If abuse has occurred over a long period of time the impact on victims can be profound. Some of the possible responses of victims are as follows:<sup>11</sup>

- Victims may fear loss of their independence if abuse is reported
- Victims do not know where to turn for help, view the abuse as normal, are intimidated by the law enforcement and judicial systems or are too impaired to report it.
- The complicated legal needs of older persons can be an obstacle to the victim leaving an abusive situation
- Older persons may be embarrassed at being victimized, and ashamed if the abuser is a child or family member

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<sup>9</sup> *IBID*

<sup>10</sup> D. Rabiner, J. O'Keeffe & D. Brown "A Conceptual Framework of Financial Exploitation of Older People" [2004] 16 *Journal of Elder Abuse and Neglect*, 53.

<sup>11</sup> See, for example, Lundy & Grossman, *supra* note 8; Rabiner, *IBID*.

- Older persons may also be afraid of the perpetrator and may not understand their legal rights, or how to access the justice system.

Responses such as these have been documented through research. In one study, older women who were victims of domestic violence were interviewed about their experiences. Many interviewees expressed sadness at all the time that had passed and believed that it was now too late to live on their own, or, if they were on their own, they expressed fear of the future or regret of the time lost.<sup>12</sup>

In another study middle aged and older victims of domestic violence were interviewed about their experiences. Respondents were concerned that they would not be believed if they disclosed the abuse. They also expressed feelings of powerlessness and hopelessness, and blamed themselves for the abuse. Participants believed that they needed to keep the abuse secret from others in order to protect the family. As well, they explained that the effects of abuse were cumulative over time, whereby in a long term abusive relationship change becomes very difficult, which makes it difficult for individuals to seek help.<sup>13</sup>

It should be noted that abusers often deliberately prey on victims who are socially vulnerable and are unable to seek assistance on their own. The possibility of seeking help is further compromised by the abuse. Perpetrators often use tactics that increase victims' dependency on the abuser. A few of the tactics used are as follows:<sup>14</sup>

- Isolation from social support by making the victim completely dependent on the offender
- Monopolization of perception by fixing the victim's attention on the immediate predicament, eliminating competing stimuli and frustrating any actions that are not in compliance with the offender's wishes
- Inducing debility and fatigue (e.g. by sleep deprivation, inadequate nutrition, medication mismanagement) so the victim becomes exhausted from the tension
- Providing occasional indulgences which reinforce the omnipotence of the perpetrator and provide motivation for compliance
- Devaluing the person through words and actions

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<sup>12</sup> E. Buchbinder & T. Winterstein "Like a Wounded Bird: Older Women's Life Experiences with Intimate Violence" [2003] 15 Journal of Elder Abuse and Neglect, 23.

<sup>13</sup> R. Beaulaurier, L. Seff, F. Newman & B. Dunlop "Internal Barriers to Help Seeking for Middle aged and Older Women Who Experience Intimate Partner Violence" [2005] 17 Journal of Elder Abuse and Neglect, 53.

<sup>14</sup> Brandl, *supra* note 7

## 6. Practice Tips

Often the clues that someone is being abused are subtle, and it is common for abuse victims to deny being abused if asked directly. This can make it difficult for legal practitioners to accurately assess the legal needs of the client. A client who is traumatized by the abusive situation may present as cognitively impaired, when they actually are not. In situations where it is clear that a client who is being abused is competent, it can be hard to determine what advice should be given in the face of intense pressure by family members or friends. Some experts from the legal field and other disciplines have noted similarities between undue influence and the pressure and manipulation directed at elder abuse victims by perpetrators.<sup>15</sup> As a result, abuse victims may limit themselves to stating opinions that their abusers would agree with, even when the abuser is not in the room. It is possible that instructions provided by abuse victims may reflect the wishes of the abuser more than the wishes of the client. Therefore, it is suggested that the elder law practitioner make it a part of regular practice to look for indicators that abuse is occurring and not be too quick to assume that their suspicions are misguided.

### ***A. Watch for Indicators of Abuse***

An elder law practitioner is likely to encounter clients who have experienced different types of abuse, but financial abuse presents additional challenges for elder law practitioners as the abuse may be directly related to the work that the client has retained the elder law practitioner to do. It is suggested that elder law practitioners watch for indicators of abuse. Indicators of financial abuse are as follows:<sup>16</sup>

- Unexplained discrepancy between known income and standard of living
- A signed document (e.g. will, cheques, property deed) where the client does not understand its meaning
- Recent changes to legal documents (e.g., will, power of attorney, representation agreement) or ownership of assets
- Possessions disappearing

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<sup>15</sup> See for example, Brandl, *supra* note 7 and Quinn, *supra* note 6.

<sup>16</sup> For anyone wishing to read further on this topic, there are numerous sources containing descriptions of indicators of various types of abuse. See for example, Pearl McKenzie (2002) *Guide to Legal Issues in Elder Abuse Intervention*, Vancouver: North Shore Community Resources Society and Rabiner, *supra*, note 10

- A surprised response to an over-drawn or lower than expected bank account
- Nervousness when discussing money or assets
- Unusual transactions conducted on person's behalf
- Unpaid bills, eviction notices or notices to discontinued utilities
- Unusual activity in the older persons bank accounts, including large unexplained withdrawals, infrequent transfers between accounts or ATM withdrawals
- Withdrawals from bank accounts or transfers between accounts that the older person can not explain
- Suspicious signatures on cheques or other documents
- Bank statements and cancelled cheques no longer coming to the older person's home
- Overcharges for or non delivery of care giving services
- Significant changes in spending patterns
- Implausible explanations for use of assets

Since it is common for older adults to bring family members to business appointments the presence of a son, daughter or other relative at an appointment may not seem suspicious.

However, if a third party does attend an appointment with the older adult it should be done with caution. If, for example, the older adult appears confused about his or her finances don't assume that this is because of cognitive impairments, even if the family member states that "he/she is confused" Instead, ask questions to find and explore the financial situation further.

Although a lawyer might be most likely to encounter financial abuse, it is also possible that an elder law practitioner may become aware that a client has been abused in other ways. For example, a lawyer might notice bruises or other markings on a client. These markings may indicate that the client has been hit. In this situation a lawyer may be able to provide assistance to the client such as contacting the police or taking some other protective action.

## ***B. Consider the Context***

It is considered good practice when an older adult is contemplating a will or similar document to meet alone with the client without third parties present. However, sometimes it may be prudent to meet with an older adult alone even when it does not appear that the accompanying family member or friend has conflicting interests. This will allow the legal practitioner to find out what the client's interests are without any direct interest from a third party. This will also

make it easier to ask follow up questions if during the meeting the older adult provides information that raises the possibility of financial abuse or power and control being exerted on the elder by the third party.

It is important to note that the older adult may deny that abuse is occurring even when directly asked. This may occur out of fear of the abuser, embarrassment, or shame. It may even be because the client is unaware of some of the financial transactions that have been made, or because the abuser has previously provided a rationale for the transactions that is inaccurate.

The context is very important when assessing whether or not abuse is occurring. One act may look minor by itself, but when viewed in context with other behaviors can be serious. Abuse has a cumulative effect. Given the fact that abusers often try to control their victims it can be helpful to look for a pattern of controlling behaviors. A good question to consider is whether the actions or inactions are being used to control and dominate the thoughts, beliefs, or behaviors of the client. Clues to the abuse can also be observed by watching the behavior of the client. If the older person is fearful, withdrawn, depressed, and isolated; does the suspected abuser answer for the older person and/or is reluctant to leave the person alone with professionals?

### ***C. Offer Non Judgmental Listening***

If a lawyer suspects his or her client is being abused, a further inquiry is in order. However, the abuse victim may not disclose quickly, or at all. Some victims have kept the secret for years, and may be worried about the consequences of telling. Will they be believed? Will they lose contact with children or grandchildren? Will they be punished by the abuser? Because of these concerns and others it can be frightening for some older adults to tell someone what has been happening to them.

Most people can, and will, offer information about their situation if they feel safe and trust the person who is helping them.<sup>17</sup> Older adults may feel more comfortable if they have the opportunity to talk about topics they are comfortable with and then, once comfortable, are asked open non judgmental questions. Pre-mature judgments should be avoided, whether about the abuse or about the client. For example, it is common for abuse victims to exhibit signs of trauma which are similar in appearance to dementia, mental illness, substance abuse or other cognitive

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<sup>17</sup>See McKenzie, *Supra* note 6; Dianne Kinnon, *Community Awareness and Response: Abuse and Neglect of Older Adults*. Ottawa: National Clearinghouse on Family Violence, Health Canada, 2001.

impairments<sup>18</sup>. It is prudent to keep an open mind to this possibility and to take extra time with older adults who seem confused in case abuse is a contributing factor. In some situations the client may be suffering from both dementia and from the effects of abuse. However, even where there is some dementia or cognitive impairments the older adult may still be able to provide information about what has happened.

#### ***D. Let the Client Decide How to Proceed***

There are many reasons why victims may not want to take action regarding the abuse, and, therefore, it is important to find out how the client wants to proceed. It may be that a client, who is a victim of abuse, prefers no change to change that will result in significant losses. Older adults who have experienced abuse may be afraid of being alone and not ready to risk losing contact with family members or friends. This is a common response. If an older adult is competent it is his or her choice whether to continue in the current situation or to make changes, even if the situation is very risky or highly unsafe. If an abuse victim feels too much pressure to make changes he or she may simply cut off contact with the professional who is pushing for change. On the other hand, if the professional communicates that he or she will support the older adult's decisions the older adult may seek help at a later time when he or she is willing to take steps necessary to end the abuse. Depending on the situation, steps might include assisting the client to report to the police, applying for a restraining order, providing legal support so the client can leave a relationship or assisting with referral to community resources.

#### ***E. Keep an Eye out for Ethical Issues***

Ethical dilemmas arise in elder law practice. These situations become more complex when abuse is a factor, particularly in regard to capability concerns and the involvement of third parties.

One issue that confronts lawyers practicing in this area is assessing the capability of clients to provide instruction or to enter into agreements. Assessment of capability can be more difficult when abuse is involved. The abuse victim may exhibit behavior that suggests he or she has cognitive deficits, whereas in actuality the behaviors are the result of trauma. Although the older adult may recover the apparent deficits once removed from the traumatic situation, in the

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<sup>18</sup> Brandl, *supra* note 7.

interim it may be difficult to accurately assess the older adult's ability to give instruction. This speaks to the importance of not rushing to judgment when determining whether or not a client or potential client has capacity to instruct counsel.

Another issue that confronts lawyers practicing in this area is that the family member or friend who appears to be assisting the older adult may in fact be abusing the older adult. A lawyer may suspect abuse, only to have the older adult deny abuse is occurring. The older adult may even explicitly request that the third party be present during legal appointments. In some situations this is because older adults who have been financially abused believe they have consented to third party access to their money. They then minimize pressure or manipulation that led to this consent. In this situation, the "consent" given by the victim was not based on a true understanding of the situation. Where there are concerns that abuse or manipulation may be occurring, the third party should not be in the room during the interview with the client. The lawyer can provide an explanation for this based on concerns about confidentiality or solicitor client privilege.

A third ethical issue that an elder law lawyer might encounter is a situation where a client discloses abuse, and gives clear instruction to the lawyer not to tell anyone, while in the same conversation disclosing the fact that other people are being abused by the same perpetrator. In some situations such as where the client lives in a care facility it is possible that other residents might not be competent or able to protect themselves. In some situations where the abuse is severe it may fit within the exception to confidentiality for situations where a lawyer may disclose confidential information to prevent a crime involving death or serious bodily harm (as per section 5(12) of the *Professional Conduct Handbook*). Whether a particular situation would fall within that provision would depend on the facts at hand.

A preferable first step would be to have a candid discussion with the client and to brainstorm possible options for reporting the abuse of other residents without disclosing the client's situation or other confidential information. If permission is obtained from the client for any particular disclosure during this conversation then the lawyer should be able to report the abuse in accordance with the provisions of section 5(11)(a) of the *Professional Conduct Handbook*, which allows a lawyer to disclose confidential information when given authority by the client to do so.

These are only three examples of how abuse might add some complexity to ethical issues in an elder law practice. However, there is no universal rule to apply in dealing with these situations as the facts will vary from situation to situation. Careful consideration is always important, and in some situations consultation with a practice advisor would be beneficial.

## 7. Relevant Legislation

The key piece of legislation relevant to the abuse and neglect of older adults is Part 3 of the *Adult Guardianship Act*.<sup>19</sup> Under Part 3 of the *Adult Guardianship Act*, anyone who believes that an adult is being abused or neglected, and is not able to seek help on their own, may make a report about the abuse or neglect to a designated agency. S. 44 of the *Adult Guardianship Act* States that:

The purpose of this Part is to provide for support and assistance for adults who are abused or neglected and who are unable to seek support and assistance because of

- (a) physical restraint,
- (b) a physical handicap that limits their ability to seek help, or
- (c) an illness, disease, injury or other condition that affects their ability to make decisions about the abuse or neglect.

According to s 46(1) of the *Adult Guardianship Act*,

Anyone who has information indicating that an adult

- (a) is abused or neglected, and
- (b) is unable, for any of the reasons mentioned in section 44, to seek support and assistance, may report the circumstances to a designated agency.

The designated agencies are:

- The five Regional Health Authorities in BC who delegate this responsibility to their staff providing Home and Community Care and Mental Health services
- Community Living BC for adults with a developmental disability who are eligible for their services

There is a list of designated agency contacts in all regions of the province on the website of the Public Guardian and Trustee of BC.

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<sup>19</sup> *Adult Guardianship Act*, R.S.B.C. 1996, c. 6

Designated agencies have a mandated responsibility to respond to abuse as set out in Part 3 of the *Adult Guardianship Act*. This authority was granted by the Public Guardian and Trustee who holds the legislative authority to designate agencies for this purpose and did so in the *Designated Agencies Regulation*, B.C. Reg. 19/2002.

It is important to note that BC does not have requirements for mandatory reporting of abuse of adults, unlike some other jurisdictions. In British Columbia, although it is not mandatory to report, when a designated agency receives a report of abuse of an adult within the definitions set out in the *Adult Guardianship Act* it is required to investigate under s. 47 of the *Adult Guardianship Act*. After investigating, the designated agency can do one of five things: 1) take no further action, 2) refer the older adult to various services, 3) report the case to the Public Guardian and Trustee or another agency, 4) assist the adult in obtaining a representative or 5) apply to the court for a restraining order, or a maintenance order under Part 7 of the Family Relations Act or a support and assistance plan that specifies any services needed by the adult, including health care, accommodation, social, legal or financial services.

The other key legislation is the *Public Guardian and Trustee Act*. The mandate of the Public Guardian and Trustee is to protect mentally incapable adults and to supervise committees and representatives, and it has specific powers to carry out its mandate, including powers to investigate and to take protective action to protect incapable adults from financial abuse<sup>20</sup>. The office of the Public Guardian and Trustee investigates financial misuse of the power of committees and representatives, and situations where there are allegations of the financial abuse of adults who are unable to act on their own account as per the definition of abuse and neglect in s. 1 of the *Adult Guardianship Act*. In urgent cases, the Public Guardian and Trustee can freeze bank accounts, halt the sale of assets and take similar actions to protect the assets of an abused or neglected adult.

The powers of the designated agencies and of the Public Guardian and Trustee are complimentary and, in practice, the office of the Public Guardian and Trustee and the designated agencies work closely together. For example, in a situation where an adult refuses support and assistance offered by the designated agency under Part 3 of the *Adult Guardianship Act*, if designated agency staff suspect the adult lacks capacity to make that decision, they will contact the office of the Public Guardian and Trustee who can arrange an assessment of incapability. In

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<sup>20</sup> See Part 2 of the *Public Guardian and Trustee Act*, RSBC 1996, Chapter 383.

this particular circumstance the determination of incapability will be based on whether or not the adult is capable of making a decision in regard to the services offered. This will be based on whether or not the adult understands the services offered, the reason the services are being offered, and understands the consequences of not accepting the services:<sup>21</sup>

## **8. Resources**

In many jurisdictions, multi-disciplinary approaches are being developed in order to deal with the problem of elder abuse. In British Columbia, in addition to the designated agencies and the Public Guardian and Trustee, there is a range of government and community resources which provide assistance and support to victims. Following is a list of resources that may be of assistance to elder law practitioners and to their clients.

### **Toll Free Information Lines for Victims of Abuse**

#### **VictimLINK**

Telephone: 1-800-563-0808

TTY: 604-875-0885

To call TTY/TDD collect, call the Telus Relay Service (TRS) at 711.

VictimLINK provides interpretation services for all major languages in BC.

VictimLINK provides telephone support information and referral for victims of abuse. Referrals are provided to local services throughout BC.

#### **BC Centre for Elder Advocacy and Support (BC CEAS)**

Seniors Help and Information Line 10 – 3 Monday – Friday

1-866-437-1940; 604-437-1940

BC CEAS provides telephone advice and referral for older adults who have experienced abuse and legal information and advice through its legal advocacy program. These programs are accessed through the above number. Some callers are also referred to the Elder Law Clinic for legal representation based on area of law and eligibility.

### **Types of Support – Available Throughout BC**

#### **Victim Service Workers**

The Victim Services and Crime Prevention Division of the Ministry of the Solicitor General funds over 150 programs run by non-profit agencies and local police detachments. These

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<sup>21</sup> Public Guardian and Trustee (B.C.), *Adult Guardianship Act Part 3: A Guide for Communities* (Vancouver: Office of the Public Guardian and Trustee, 2001) at 26-27.

programs provide information about the justice system, practical help, emotional support and referrals to other appropriate programs

For a list of all victim service programs in BC, go to:  
[www.pssg.gov.bc.ca/victim\\_services/directory/index.htm](http://www.pssg.gov.bc.ca/victim_services/directory/index.htm)

### **Transition Homes**

These are safe, supported temporary shelter for women who are fleeing abuse and are located throughout BC. Numbers can be found in a local telephone book or by phoning VictimLink.

### **Local Counseling and Support Programs**

Community Based Counseling and/ or Support Programs exist throughout B.C. The specific services provided and costs vary from community to community. These can be found in a local phone book.

### **Agencies With Legislated Mandates to Respond in Abuse Situations**

#### **Designated Agencies**

These are agencies designated to investigate abuse under Part 3 of the *Adult Guardianship Act*. Designated agencies consist of the 5 regional health authorities and, for those with a developmental disability, Community Living BC. The health authorities have staff assigned as designated responders in local communities. This list changes, but an up to date list can be obtained from the website of the Public Guardian of BC.

Alternatively, contact information for local responders in each health regions can be obtained through the following contacts (numbers current as of April 2009):

- Northern Health – Mary-Ann Johnson: [mary-ann.johnson@northernhealth.ca](mailto:mary-ann.johnson@northernhealth.ca) (in Prince George – the Prince George Adult Protection Line: 565-7414)
- Vancouver Island Health – [graham.sanderson@viha.ca](mailto:graham.sanderson@viha.ca)
- Vancouver Coastal Health – Re:Act Response Resource: 1(877)732-2899, <http://www.vchreact.ca/>
- Fraser Health – Leanne Lange: [leanne.lange@fraserhealth.ca](mailto:leanne.lange@fraserhealth.ca)
- Interior Health – Linda Myers: [linda.myers@interiorhealth.ca](mailto:linda.myers@interiorhealth.ca)

#### **Public Guardian and Trustee**

The mission of the Public Guardian and Trustee is to safeguard and uphold the legal and financial interests of children; manage the legal, financial and personal care interests of adults needing assistance in decision-making; and administer the estates of deceased and missing persons. Contact information for offices in various regions of the province can be found at <http://www.trustee.bc.ca/>.

### **Legal Services for Older Adults With Low Income**

**BC Centre for Elder Advocacy and Support, Elder Law Clinic**

Business Line 604-688-1927

For Referrals 1-866-437-1940 or 604-437-1940

**Legal Aid**

Telephone: 604-408-2172 (Lower Mainland)  
1-866-577-2525 (toll-free outside Lower Mainland)

Web: [www.lss.bc.ca](http://www.lss.bc.ca) (This site has information about legal aid eligibility and coverage)

**LawLINE**

Telephone: 604-408-2172 (Lower Mainland)  
1-866-577-2525 (toll-free outside Lower Mainland)