



Adult Protection Act
Discussion Paper—Response Booklet

September 2004

Instructions

This booklet is provided to facilitate your response to the Nova Scotia Department of Health's discussion paper on the *Adult Protection Act*. The purpose and interpretation of the current act are included on page ii of this document to help you in this process.

Please clearly indicate your response in the space provided. An opportunity to include additional comments is provided at the end of the response booklet.

Your comments and suggestions are important and will be reviewed by the Department of Health and used to help improve adult protection legislation.

The deadline for submissions is **October 15, 2004**.

Responses should be forwarded to the department:

By mail: Provincial Coordinator
Adult Protection Services
Continuing Care Branch
Department of Health
P. O. Box 488, Halifax, Nova Scotia B3J 2R8

By fax: (902) 424-0558

By e-mail: apact@gov.ns.ca

The Discussion Paper and the Response Booklet can also be accessed through the Department of Health's website at www.gov.ns.ca/health.

Thank you for your comments and interest in the protection of vulnerable adult Nova Scotians.

Adult Protection Act

Purpose of Act

2 The purpose of this Act is to provide a means whereby adults who lack the ability to care and fend adequately for themselves can be protected from abuse and neglect by providing them with access to services which will enhance their ability to care and fend for themselves or which will protect them from abuse or neglect.

Interpretation

3 In this Act,

- (a) “adult” means a person who is or is apparently sixteen years of age or older;
- (b) “adult in need of protection” means an adult who, in the premises where he resides,
 - (i) is a victim of physical abuse, sexual abuse, mental cruelty or a combination thereof, is incapable of protecting himself therefrom by reason of physical disability or mental infirmity, and refuses, delays or is unable to make provision for his protection therefrom, or
 - (ii) is not receiving adequate care and attention, is incapable of caring adequately for himself by reason of physical disability or mental infirmity, and refuses, delays or is unable to make provision for his adequate care and attention;

Nova Scotia’s *Adult Protection Act*, in its entirety, can be viewed at www.gov.ns.ca/legi/legc, under consolidated public statutes.

Guiding Principles

1. Do you agree that guiding principles should be included in the *Adult Protection Act*? (p. 4) YES NO

Comments:

2. Do you agree with the recommended guiding principles? (p. 4) YES NO

Comments:

3. Are there other principles that you would like to see included? (p. 4) YES NO

Comments:

Competency

4. Do you agree with the suggestion of the department to adopt the Saskatchewan definition of mental incompetence? (p.7) YES NO

Comments:

5. Is there some other definition of mental incompetence that you would like to suggest? (p.7) YES NO

Comments:

6. Do you agree with the inclusion of a section in the *Adult Protection Act* similar to Section 37.3 of the New Brunswick Act? (p. 10) YES NO

Comments:

7. Do you have an alternative wording to Section 37.3 of the New Brunswick Act that you would suggest for inclusion in the *Adult Protection Act*? (p. 10) YES NO

Comments:

8. Should a standardized instrument or tool for assessing competency be included in regulations under the act? (p. 10) YES NO

Comments:

9. Should two independent medical practitioners (one of whom is a psychiatrist or a geriatric specialist) be required to complete the adult protection assessment? (p. 10) YES NO

Comments:

Models of Reporting: Mandatory and Voluntary

10. Do you think that Nova Scotia should continue with mandatory reporting for all persons in the *Adult Protection Act*? (p.13) YES NO

Comments:

11. (a) Do you agree with the recommendation for mandatory reporting by professionals and voluntary reporting for the rest of society? (p.13) YES NO

Comments:

(b) If reporting for professionals is mandatory, who should be included in the list of professionals? (E.g., police, clergy, physicians, nurses, social workers, psychologists) (p.13)

Comments:

Services

12. Do you agree that both the Minister of Health and the Minister of Community Services should have accountability for the delivery of services under the *Adult Protection Act?* (p.14) YES NO

Comments:

13. Do you agree that a list of services should be included in the regulations under the *Adult Protection Act?* (p. 16) YES NO

Comments:

Physical Disability and Duress

14. Do you agree with physical disability being removed from the *Adult Protection Act?* (p. 17) YES NO

Comments:

15. Should physical incapacity, as opposed to physical disability, be included in the definition of an adult in need of protection? (p. 18) YES NO

Comments:

16. Do you agree with duress being removed from the *Adult Protection Act*? (p. 19) YES NO

Comments:

Self-Neglect

17: Should self-neglect remain within the definition of an adult in need of protection? (p. 21) YES NO

Comments:

18: Do you agree with the recommended definition of self-neglect? (p. 21) YES NO

Comments:

Adult Protection in Homes for Special Care

19. Should the policy of not applying the *Adult Protection Act* to licensed facilities under the *Homes for Special Care Act* continue? (p. 23) YES NO

Comments:

Financial Abuse

20. Do you agree that financial abuse where there is physical abuse, sexual abuse, mental cruelty, neglect, or self-neglect be included in the legislation? (p. 26) YES NO

Comments:

21. Do you have other suggestions about financial abuse and how it should be dealt with? (p. 26) YES NO

Comments:

Interim Orders and Guardians *ad Litem*

22. Do you agree that the *Adult Protection Act* contain the authority to issue interim orders for a 30-day period? (p. 27) YES NO

Comments:

23. Should the *Adult Protection Act* contain specific provisions that allow for the appointment of a guardian *ad litem*, even though the Civil Procedure Rules for the Supreme and Family Courts require the appointment of such guardians *ad litem*? (p. 28) YES NO

Comments:

24. Which government department or agency should have the responsibility for the resourcing and recruiting of guardians *ad litem*? (p. 28)

Comments:

25. Do you agree that the *Adult Protection Act* should include making provision for in-home services to the adult in need of protection where appropriate? (p. 29) YES NO

Comments:

Definitions

26. Do you agree with the substance of the above definitions and should they be included in the legislation? (p. 31) YES NO

Comments:

27. Are there other definitions that you feel should be included in the *Adult Protection Act*? (p. 31) YES NO

Comments:

Authorization of Medical Procedures

28. Do you agree with the department's recommendation for inclusion of a health care consent provision in the *Adult Protection Act* similar to the one contained in the Prince Edward Island legislation? (p. 33) YES NO

Comments:

Operational and Procedural Issues

29. Do you agree that there should be legislated provisions for the Minister to take reasonable steps to prevent loss or damage to the property of an adult in need of protection? (p. 35) YES NO

Comments:

30. Do you agree with the department's recommendation regarding the reporting of abuse and neglect? (p. 36) YES NO

Comments:

31. Do you agree that when adults in need of protection are assessed as having the ability to pay, the cost of services rendered should be recovered, where appropriate? (p. 37) YES NO

Comments:

32. Do you support the inclusion of a clause allowing the department to gather information similar to that in the Yukon *Decision Making Support and Protection to Adults Act*? (p. 38) YES NO

Comments:

Confidentiality

33. Do you agree with the confidentiality component that the department is suggesting for inclusion in the *Adult Protection Act*? (p. 39) YES NO

Comments:

Additional Comments

Comments:

