NOVA SCOTIA
Seniors and Long-Term Care

Policy: **Adult Protection Policy Manual**

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Effective Date: February 8, 2011

Approved by: Kevin McNamara
Deputy Minister, Department of Health and Wellness

Signature: *Original signed by Kevin McNamara*

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1.1 POLICY

Introduction

The Government of Nova Scotia proclaimed the *Adult Protection Act* in January 1986. This *Act* protects adults over the age of 16 from significant risk of self-neglect, abuse and neglect when they are unable to protect themselves from that risk.

The Minister of Health and Wellness and designated officials within the Department of Health and Wellness are charged with the responsibility to investigate, assess, intervene, recommend and refer services for adults who are in need of protection. This manual prescribes the roles and responsibilities of the Adult Protection team through the following policies, procedures, processes and standards.

Authorization

I hereby authorize the attached policies contained in the Adult Protection Policy Manual as of February 8, 2011.

Kevin McNamara
Deputy Minister
Department of Health and Wellness

Policy: 1.2 Intention of the *Adult Protection Act*

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1.2 PURPOSE

All legislation evolves with developments in case law, societal changes and the advancement of other legislation or government policies which affect the particular law in question.

There have been many developments in all of these areas since the *Adult Protection Act* was enacted in 1986; and, therefore, the policies and policy tools contained in this attached Adult Protection Policy Manual may contain specific language that is not necessarily the same, *literal* language used in the *Adult Protection Act*.

Recommendations put forward for amendments to the *Adult Protection Act* will reflect the evolution of case law, legislation and government policies which affect Adult Protection clients.

The Adult Protection Policy Manual was written to articulate the intention of the *Adult Protection Act*. The policies and tools will guide Adult Protection workers in their current work, in the present context of government and the present legal framework under which the *Adult Protection Act* resides and the present day understanding of balancing the autonomy of vulnerable adults in Nova Scotia with the responsibility to protect them from abuse and neglect.

1.2.1 POLICY

Adult Protection workers must follow the policies contained in this manual.

Workers are responsible to be knowledgeable of Department of Health and Wellness policies and provincial and federal legislation that affect Adult Protection clients.

If an Adult Protection worker has a question related to the intention of the *Adult Protection Act* generally, or how the *Act* relates to a client's situation, he or she must consult with his or her supervisor.

Policy: 1.3 Adult Protection Vision and Mission

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1.3 PURPOSE

In Nova Scotia, Adult Protection is governed by the *Adult Protection Act* and is guided by the *Canadian Charter of Rights and Freedoms*.

The intention of the *Adult Protection Act* is to protect adults who are living at significant risk of self-neglect, abuse or neglect and are unable to protect themselves due to physical or mental incapacity.

The vision statement of Adult Protection reflects its' purpose, while the mission statement demonstrates how services are to be delivered to achieve this vision. The Adult Protection guiding principles further describe *how* Adult Protection serves vulnerable adults in Nova Scotia.

1.3.1 POLICY

Adult Protection workers must comply with the following vision and mission statements:

Vision Statement

Vulnerable adults in Nova Scotia are protected from significant risk of abuse and neglect.

Mission Statement

To protect vulnerable adults in Nova Scotia from significant risk of self-neglect, abuse and neglect and to ensure timely and appropriate referrals, interventions and supports in the least intrusive manner possible in collaboration with health and social service partners.

Policy: 1.4 Adult Protection Guiding Principles

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Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

1.4 PURPOSE

The guiding principles for Adult Protection are based in the *Canadian Charter of Rights and Freedoms*; which, in part, articulates the competing values in our society of balancing an individual's liberty and autonomy with protecting vulnerable adults in our communities.

1.4.1 POLICY

All Adult Protection workers must comply with the following guiding statement and principles:

Adult Protection Guiding Statement

Interventions under the *Adult Protection Act* are only justifiable when there are reasonable and probable grounds to demonstrate that there are significant risks compromising the life of an adult who is unable to protect him or herself from those risks.

Adult Protection, first and foremost, for *incapacitated* individuals considers the "best interests" of the person when making decisions related to the nature of the intervention. However, to the extent possible, an incapacitated individual's previous and current expressed wishes, values and beliefs must be considered in any intervention.

If an individual has the capacity to understand and appreciate the significance of the risk that they are living in but are unable to physically protect themselves from that risk, his or her wishes are considered to be of primary importance[1] when initiating a referral for service.

In all Adult Protection interventions, the least intrusive method must always be primarily considered. Court action must be considered the last resort and when this is deemed the appropriate course of action, the detention of the person should only be of a prescribed duration.

[1] Insofar as the individual's wishes do not entitle him/her to any services over and above other Nova Scotians.

Additionally, any intervention to assist or protect a person should be designed for the specific needs of the individual, limited in scope, and subject to review and revision as the person's condition and needs change.

Adult Protection Guiding Principles

Adult Protection workers:

1. Preserve the autonomy and self-determination of all individuals.

2. Presume that people are capable to make decisions for themselves.

3. Recognize and respect the intrinsic worth of each person by ensuring his or her practice is free from discrimination based on race, national or ethnic origin, religion, sex, sexual orientation, age or mental or physical disability[2] or any other characteristic for which someone might be discriminated against in society.

4. Recognize that all adults in Nova Scotia are entitled to equal services, regardless of their capacity to care or make decisions for themselves.

5. Implement the least intrusive form of support, assistance, or protection.

6. Consider the "best interests"[3] of the client to be paramount in relation to all Adult Protection interventions.

7. Respect the rights of clients in relation to confidentiality and privacy.

How the Adult Protection Guiding Principles are demonstrated in practice:

1. Preserving the autonomy and self-determination of all individuals.

This is demonstrated by:

- Providing clients with all the information needed to make decisions and to engage them to the best of their ability to participate in making decisions that affect them;

- Respecting the wishes of individuals to live in the manner they wish and to accept or refuse support, assistance or protection as long as they do not harm others and they are *capable* of making decisions about those matters;

- Focusing on the strengths of clients and not their deficits.

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[2] Department of Justice Canada. Retrieved on August 12, 2008 from http://laws.justice.gc.ca/en/charter/#garantie

[3] "Best Interests" in this context is considered to be the "best" way to mitigate the assessed risk to the client based on considerations such as; the services available, the support system of the client and the ability of the client to participate in the prescribed services.

2. Presuming that people are capable to make decisions for themselves.

This is demonstrated by:

- Considering individuals to be able to make their own decisions unless there is evidence to substantiate reasonable and probable grounds that the individuals do not understand the specific decisions before them and appreciate the consequences of making or not making those decisions.

3. Recognizing and respecting the intrinsic worth of each person by ensuring that his or her practice is free from discrimination based on race, national or ethnic origin, religion, sex, sexual orientation, age or mental or physical disability[4] or any other characteristic for which someone might be discriminated against in society.

This is demonstrated by:

- Approaching work collaboratively and focusing on the needs of the people served through Adult Protection. Adult Protection workers utilize principles of fairness, have transparent and honest communication[5], and are committed to the values of acceptance, self-determination and respect of individuality;[6]

- Ensuring that any deficits in communication are not grounds to consider the individual mentally incapacitated.

4. Recognizing that all adults in Nova Scotia are entitled to equal services, regardless of their capacity to care or make decisions for themselves.

This is demonstrated by:

- Referring to appropriate services which are approved by the Department of Health and Wellness and/or Department of Community Services;

- Respecting existing Department of Health and Wellness and Department of Community Services policies that prescribe services for which all Nova Scotians are entitled.

5. Implementing the least intrusive form of support, assistance and protection.

This is demonstrated by:

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[4] Department of Justice Canada. Retrieved on August 12, 2008 from http://laws.justice.gc.ca/en/charter/#garantie
[5] Code of Ethics for Registered Nurses, 2008. Retrieved on August 12, 2008 from http://www.cna-nurses.ca/CNA/practice/ethics/code/default_e.aspx
[6] Canadian Association of Social Workers. Social Work Code of Ethics, 1994. pp. 7

- Assessing the client's support system. If they have a substitute decision-maker or a guardian willing and able to act, court action may not be necessary to implement services or placement;

- Considering, if possible, a referral for services for the client before court action.

6. Considering the "best interests"[7] of the client to be paramount in relation to any Adult Protection intervention.

This is demonstrated by:

- Demonstrating that the Adult Protection worker has reasonable and probable grounds to believe that the client will benefit from the intervention;

- Taking into account the expressed wishes of the client in all Adult Protection interventions including wishes expressed in a personal directive;

- Considering the client as an individual, a member of a family unit, a member of a community, a person with a distinct ancestry or culture and factoring in these considerations in any decision affecting the client.[8]

7. Respecting the rights of clients in relation to confidentiality and privacy.

This is demonstrated by:

- Maintaining the privacy and confidentiality of the client in all possible situations and informing the client of the limitations of confidentiality; informing them where and when their personal information will be shared;

- Ensuring that clients are given all information related to the nature and duration of an Adult Protection intervention; even in the event of the client having a guardian or substitute decision maker, the Adult Protection worker will inform the client directly;

- Sharing personal information of clients only where it is required for their protection and appropriate service provision;

- Collecting specific evidence related only to the client's situation of significant risk and their inability to protect themselves from that risk;

- Adhering to all provincial and national legislation, Department of Health and Wellness policies and the principles outlined in the Nova Scotia Association of Social Workers' Code of Ethics related to confidentiality and privacy issues.

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[7] "Best Interests" in this context is considered to be the "best" way to mitigate the assessed risk to the client based on considerations such as; the services available, the support system of the client and the ability of the client to participate in the prescribed services.

8 Canadian Association of Social Workers. Social Work Code of Ethics, 1994. pp. 4

Policy: 2.1 Adult Protection Authority to Act

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Signature: ***Original signed by Kevin McNamara***	

2.1 PURPOSE

The **purpose** of Adult Protection is described in *Section 2* of the *Adult Protection Act*:

The purpose of the Act is to provide a means whereby adults who lack the ability to care and fend 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[1]*.*

Therefore, adults who are *incapable* of protecting themselves either physically or mentally from abuse and/or neglect (including self-neglect) have the right to be protected by the Minister of Health and Wellness. These adults are protected by being referred to and given priority access to services which will provide for their protective needs[2].

2.1.1 POLICY

Adult Protection has the authority to intervene based on the following determinations:

1. The individual is living at a significant level of risk; *and*

2. The individual does not:
   i. have the mental capacity to understand or appreciate the level of risk that he/she is living in; *or*
   ii. have the physical capacity to remove him/herself from the situation of risk; *and*

3. The individual has a permanent, irreversible condition that affects his or her physical and/or mental capacity to protect him or herself from the assessed risk(s).

2.1.2 RATIONALE

The distinction of individuals not being able to protect themselves is crucial in the determination of who meets *Adult Protection Act* criteria. In most developed nations, the value of autonomy is upheld as a cornerstone belief of society. This is demonstrated through legislation; in the *Canadian Charter of Rights and Freedoms (1982)***.**

[1] *Section 2, Adult Protection Act.*
[2] These services serve only the protective needs of the adult in need of protection, not all of his or her care needs. Furthermore, adults in need of protection do not receive services which would not provided to the average Nova Scotian.

The *Charter*, as such, provides that all individuals have a right to life, liberty and security of the person and that individuals have the choice to be able to live at a certain level of risk if they are aware of the consequences of the choices that they are making and if they do not constitute a threat to other members of the community.[1]

Adult Protection Act interventions are guided by the *Canadian Charter of Rights and Freedoms*. *Sections 7* through *15* of the *Charter* set out the rights which protect individuals in Canada in their dealings with Government and government agencies. They ensure that individuals who are involved in legal proceedings are treated fairly. Included are the right to: life, liberty, and security of the person; be secure from unreasonable search and seizure; not to be subject to arbitrary detention; be informed promptly for reasons for any detention; retain and instruct counsel upon detention; have a hearing within a reasonable time by an impartial tribunal; be deprived of liberty for only a prescribed duration; the presumption of innocence and not be subjected to cruel and unusual treatment.

As a government agency, Adult Protection only intervenes when *reasonable and probable grounds* exist to support a finding that there are *significant risks* compromising the life of an adult who is unable to protect him or herself from those risks. Court action should always be considered as the last resort and when this is deemed the appropriate course of action, the individual should only be subject to an Adult Protection order of a prescribed duration. In all Adult Protection actions, the least intrusive method of intervention should always be used.

It is important to note that Adult Protection does not have the authority to intervene based on the *characteristics of a population.* The authority to intervene is based on the *situation* in which the person is living. Adult Protection interventions should never be based solely on whether or not individuals have a physical or mental infirmity, rather, that they are living in a situation of significant risk from which they are unable to protect *themselves.* Intervening is based on a *risk determination*, not the characteristics of an individual.

[1]The age of the *Adult Protection Act* is reflected in the concept of being able to intervene and take someone to court based on 'duress'. In practice, duress cases are not being brought forward to the courts. This is due to our demonstrated societal values of autonomy and choice under the *Charter of Rights and Freedoms* (which was proclaimed in 1982- only three years previous to the proclamation of the *Adult Protection Act*) and in Canadian law, this is considered a 'family violence' issue. Family violence is a relatively recent concept. Nova Scotia was a leader in developing a nationally recognized response to the federally launched family violence prevention initiative in 1995, followed with a pro-arrest, pro-charge, pro-prosecution policy against abusers in 1996.

Policy: 2.2 Administration of the *Adult Protection Act*

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2.2 PURPOSE

The Minister of Health and Wellness is responsible for the general administration of the *Adult Protection Act*. He or she may designate in writing employees from the Department of Health and Wellness to perform prescribed duties and functions of the *Act*. These employees include the Adult Protection Provincial Coordinator, full time Adult Protection workers, designate Adult Protection workers and supervisors. *Section 4(1)* of the *Adult Protection Act* states:

4(1) The Minister is charged with the general administration of this Act and may, from time to time, designate in writing the Co-ordinator or any other person to have, perform and exercise any of the powers, privileges, duties and functions of the Minister or the Coordinator under this Act, and shall, when so designating, specify the powers, privileges, duties and functions to be had, performed and exercised by the person so designated[1]*.*

The Adult Protection Provincial Coordinator is responsible for the general administration of Adult Protection Services in accordance with the *Adult Protection Act. Section 4(3)* of the *Adult Protection Act* states:

4(3) A Co-ordinator of Adult Protection Services may be appointed in accordance with the Civil Service Act[2]*.*

2.2.1 POLICY

Adult Protection workers have the authority to sign documents and/or execute documents while conducting an Adult Protection investigation. This is documented in a written Ministerial designation for each individual worker.

Adult Protection workers are to sign documents used for the above purposes with his or her name, Adult Protection Services and "authorized pursuant to *Section 4* of the *Adult Protection Act* which states*:*

Designated Officials Authority
4 (2) Where a designation is made pursuant to subsection (1) and the person designated signs or executes a document pursuant to the designation, ***he shall refer to the name of his office together with the words "Authorized pursuant to Section 4 of the Adult Protection Act"*** *and where a document contains such reference, the document*

[1] *Section 4(1), Adult Protection Act*
[2] *Section 4(3), Adult Protection Act*

(a) shall be received in evidence without further proof of the authority of the person who signs or executes the same; and

(b) shall be received in evidence without further proof of the authority of the person who signs or executes the same;

(c) *may be relied upon by the person to whom the document is directed or given by all other persons as an effective exercise of the power or function to which the document relates*[3].

[3] *Section 4(2), Adult Protection Act*

Policy: 2.3 Failure to Report an Adult in Need of Protection or Contravention of the *Adult Protection Act*

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2.3 PURPOSE

All Nova Scotians who have information indicating that there are reasonable and probable grounds that an adult is in need of protection must report that information to Adult Protection. *Section 5(1)* of the *Adult Protection Act* states:

Every person who has information, whether or not it is confidential or privileged that an adult is in need of protection shall report that information to the Minister[1].

The intention of the duty to report in the *Adult Protection Act* is to alleviate any reluctance on the part of health professionals and lay people to report their suspicions of self-neglect, abuse and/or neglect of adults who reasonably and probably are unable to protect themselves. Therefore, there will be no action taken against a person who had reasonable and probable grounds to make a report to Adult Protection and who did not make the report maliciously. *Section 5(2)* of the *Adult Protection Act* states:

No action lies against a person who gives information under subsection unless giving of the information is done maliciously or without reasonable and probable cause. R.S., c. 2, s. 5[2].

Offences under the *Adult Protection Act*

A failure to report information concerning an adult who reasonably and probably is in need of protection is considered an offence under the *Adult Protection Act. Section 16* states*:*

(1) Every person who has information, whether or not it is confidential or privileged, indicating an adult is in need of protection and who fails to report that information to the Minister is guilty of an offence under this Act.

(2) A prosecution for an offence referred to in this section shall be commenced within one year after the day on which the offence was committed and not thereafter. R.S., c. 2, s. 16[3].

Contravention of the *Adult Protection Act* or Order

According to *Section 17* of the *Adult Protection Act*:

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[1] *Section 5(1), Adult Protection Act*
[2] *Section 5(2), Adult Protection Act*
[3] *Section 16, Adult Protection Act*

Every person who violates this Act or a protective intervention order is guilty of an offence punishable on summary conviction and is liable to a fine of not more than one thousand dollars or imprisonment for not more than one year, or both. *R.S., c. 2, s. 17.*

2.3.1 POLICY

1. If an Adult Protection worker has evidence to establish that:

   a) Information concerning an adult in need of protection was *knowingly and intentionally* not reported to Adult Protection; *or*

   b) Information was reported maliciously; *or*

   c) A contravention of the *Adult Protection Act* occurred;

He or she will consult with his or her Adult Protection supervisor to discuss the evidence and assess whether court action may be warranted.

2. If, after the abovementioned consultation, it is determined that action may be warranted, the Adult Protection supervisor and the worker must consult with legal counsel.

3. If it is determined that action is warranted after legal consultation, the Adult Protection worker in coordination with the supervisor and legal counsel will initiate an application to court.

Policy: 2.4 Adult Protection Interventions

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2.4 PURPOSE

There are three stages of Adult Protection interventions.

The first two stages of interventions, *Intake and Inquiry* and *Assessment* are authorized through *Section 6* of the *Adult Protection Act* which states:

Where the Minister receives a report that a person is an adult in need of protection, he shall

a. *make inquiries with respect to the matter; and*
b. *if he finds there are reasonable and probable grounds to believe the adult is in need of protection, cause an assessment to be made, and*
c. *the Minister may, if he deems it advisable, request a qualified medical practitioner to assess the adult, the care and attention the adult is receiving and whether the adult has been abused. 1985, c.2, s .6*[1]*.*

The third stage of intervention, *Implementing the Care Plan*, is authorized by *Sections 7, 9 and 10* of the *Adult Protection Act*:

Section 7

Where, after an assessment, the Minister is satisfied that a person is an adult in need of protection, the Minister shall assist the person, if the person is willing to accept the assistance, in obtaining services which will enhance the ability of the person to care and fend adequately for himself or will protect the person from abuse or neglect.

Section 9(1)

Where on the basis of an assessment made pursuant to this Act the Minister is satisfied that there are reasonable and probable grounds to believe a person is an adult in need of protection, he may apply to a court for an order declaring the person to be an adult in need of protection and, where applicable, a protective intervention order.

Section 10(1)

Where on the basis of an assessment made pursuant to this Act the Minister is satisfied that there are reasonable and probable grounds to believe that
(a) the life of a person is in danger;
(b) the person is an adult in need of protection; and

[1] *Section 6, Adult Protection Act*

(c) the person is not mentally competent to decide whether or not to accept the assistance of the Minister or is refusing the assistance by reason of duress,
the Minister may authorize the immediate removal of the person to such place as the Minister considers fit and proper for the protection of the person and the preservation of his life, and a person so authorized may take reasonable measures to remove the person whose life is in danger[2].

2.4.1 POLICY

I. Intake and Inquiry

At the *Intake* part of *Intake and Inquiry*, the Adult Protection worker must demonstrate that there are *reasonable*[3] grounds that the client:

1. is living at a moderate, high or extremely high level of risk;
2. is unable to protect him/herself from that risk due to a physical or mental incapacity;
3. has a permanent, irreversible condition that affects his or her physical or mental capacity to protect him/herself from the identified risks.

At the *Inquiry* part of this stage of intervention, the Adult Protection worker must demonstrate reasonable *and* probable grounds of the client meeting the above listed criteria[4].

In order to determine that he or she has reasonable and probable grounds to assess, the Adult Protection worker must refer to Policy 4.1.

Additionally, the Adult Protection worker must consider the reliability of the referral source (refer to Policy 4.4).

If an assessment is warranted, the Adult Protection worker conducts a pre- assessment risk screen (refer to Policy 4.8). This screen determines the level of risk to the worker when conducting his/her assessment.

II. Assessment

The Adult Protection worker must assess the client using the Adult Protection Risk and Capacity Assessment (refer to Policies 5.14.1 and 5.14.2).

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[2] *Sections 7,8,9, Adult Protection Act*
[3] The 'reasonable' standard is that a 'reasonable person' would infer that the client meets the criteria of an adult in need of protection with the information available in the referral. 'Reasonable and probable grounds' are that the evidence supports that there is more than a 50% likelihood that the client meets the criteria of an adult in need of protection.
[4] It is important to note that the higher standard of meeting reasonable and probable cause at Inquiry to move forward with the Assessment is due to the more intrusive nature of this part of the intervention. To move from Intake to Inquiry the standard does not have to be as stringent; there must be 'reasonable' cause established.

The worker interviews the Adult Protection client and gathers collateral information from other sources such as family and medical and health personnel to determine whether or not the person meets the criteria of an adult in need of protection.

If the Adult Protection worker determines that the client meets the criteria of an adult in need of protection, the Adult Protection worker formulates a care plan, which means that the worker must choose which intervention is appropriate for the adult in need of protection; referral for services through *Section 7* or the imposition of services through court action under a *Section 9 or 10*.

In order for an adult in need of protection to meet the criteria of a *Section 7*, or a direct referral for services, he or she must:

1. Have the mental capacity to consent for services; or
2. Have a legally authorized substitute decision maker who is able and willing to consent for a referral for services on the adult's behalf.

A *Section 7* must always be the first consideration of an Adult Protection worker when considering intervention options.

An Adult Protection worker must initiate court action under a *Section 9* or *10* in the following circumstances:

- If the client is consistently refusing to receive the services (if mentally incapacitated);
- The client is experiencing serious harm due to abuse or serious neglect at the hands of others;
- There is significant family discord that prevents a substitute decision maker from being appointed;
- There is evidence to suggest that the substitute decision maker has not been acting in the best interests of the client and there is not another substitute decision maker who is willing and able to act;
- The client must be removed from his or her premises immediately due to the level of risk he or she is living in (*Section 10*).

III. Implementation of the Care Plan

The Adult Protection worker must follow through with the care plan, which articulates the risks that must be mitigated by the recommended services. A follow up plan is developed at this stage of intervention which articulates the planned timeline for involvement and how the Adult Protection worker plans to demonstrate that the assessed risks have, in fact, been mitigated by the care plan.

Policy: 2.5 Adult Protection Clients

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2.5 PURPOSE

An adult is considered to be an Adult Protection client throughout the entire Adult Protection process; from Intake and Inquiry to Assessment to the Implementation of the Care Plan.

An adult is considered to be 'in need of protection' once the Adult Protection worker assesses the adult and *concludes* that the client meets the following criteria:

a) he or she is 16 years of age or older;

b) he or she is living at significant risk as determined by the *Adult Protection Risk and Capacity Assessment*;

c) he or she is mentally and/or physically incapacitated to protect him/herself from the assessed risk(s);

d) he or she has a permanent and irreversible condition that affects his/her mental and/or physical capacity to protect him/herself.

The criteria of an adult in need of protection are outlined in *Section 3* of the *Adult Protection Act* which states:

a) "adult" means a person who is apparently 16 years of age or older;

b) "adult in need of protection" means an adult who, the premises 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 himself by reason of physical disability or mental infirmity, and refuses, delays or is unable to make provision for his adequate care and attention[1].

For the purposes of Adult Protection, not receiving an 'adequate level of care' is where the client is not receiving or providing him or herself with the essential necessities of life, which includes food, water, housing, life sustaining medication and/or medical treatment, and is therefore, living at significant risk. A client has to be experiencing

[1] *Section 3, Adult Protection Act*

'serious harm' as a result of abuse and/or neglect to be considered living at 'significant risk'.

Additionally, the 'premises where an adult resides' is considered to be *wherever the adult is living at the time of the referral*[2]. The intention of including this description of an Adult Protection client in the legislation is to ensure that the Adult Protection worker assesses the client in the physical environment in which he or she lives to accurately depict the client's situation of current risk.

2.5.1 POLICY

Adult Protection workers shall refer to individuals as Adult Protection clients once an individual's case has been accepted at Intake.

In order to accept an adult as an Adult Protection client, workers must only consider if there is reasonable cause to determine whether or not the adult is:

a) 16 years of age or older;

b) living at significant risk;

c) mentally and/or physically incapacitated to protect him/herself from the significant risk(s);

d) has a condition which permanently and irreversibly affects his/her mental and/or physical capacity to protect him/herself.

Adult Protection workers shall interpret the adult's place of residence to be *wherever the adult is living at the time of the referral*. In the case of homelessness, the Adult Protection worker is expected to assess the client in the area where the client articulates he or she lives. In the case of a referral for an admitted patient from hospital, *who had no fixed address prior to being admitted*, the adult's place of residence would be considered to be the hospital for administrative purposes. In the process of assessing the client, however, the Adult Protection worker must ask questions about the client's physical living environment prior to being admitted to hospital.

Adult Protection workers conclude whether there is reasonable and probable cause to support that an adult is in need of protection after conducting his or her assessment. If an adult is found to be in need of protection at this point, the Adult Protection worker shall move forward with a *Section 7, 9 or 10* of the *Adult Protection Act*.

If the adult's case goes to court under a *Section 9 or 10*, the judge *also* makes a conclusion as to whether or not the adult is 'in need of protection'. This is based on the evidence that the Minister of Health and Wellness and the client and his or her legal representation (including the guardian ad litem) brings forward to the court.

[2] Refer to Appendix C Adult Protection Summary of Terms.

It is important to note that concluding that an adult is in need of protection only gives the adult a *priority* access to services. Adult Protection workers can still refer adult protection clients for services, even if they *do not* meet the criteria of adults in need of protection, but they will *not receive priority access to* services.

Policy: 2.6 Role of the Adult Protection Worker

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

2.6 PURPOSE

It is important to note that 'Adult Protection Worker' is the recommended position title on the job description from the Nova Scotia Public Service Commission. The formal position title for classification purposes is Social Worker- Adult Protection. For the purposes of this policy manual, the recommended position title, Adult Protection Worker will be utilized.

Administration of the *Adult Protection Act*

Adult Protection workers are designated by the Minister of Health and Wellness to perform and exercise specific powers, privileges, duties and functions of the Minister under the *Adult Protection Act*. *Section 4* of the *Adult Protection Act* states:

The Minister is charged with the general administration of this Act and may from time to time designate in writing the Co-ordinator or any other person to have, perform and exercise any of the powers, privileges, duties and functions of the Minister or the Co-ordinator under this Act, and shall, when so designating, specify the powers, privileges, duties and functions to be had, performed and exercised by the person so designated[1]*.*

Inquiry and Assessment

Adult Protection workers are designated by the Minister of Health and Wellness to *investigate and assess* adults over the age of 16 who, based on reasonable and probable grounds, meet the criteria of adults in need of protection. *Section 6* of the *Adult Protection Act* states:

Where the Minister receives a report that a person is an adult in need of protection, he shall
(a) make inquiries with respect to the matter; and
(b) if he finds there are reasonable and probable grounds to believe the adult is in need of protection, cause an assessment to be made,
and the Minister may, if he deems it advisable, request a qualified medical practitioner to assess the adult, the care and attention the adult is receiving and whether the adult has been abused. R.S., c. 2, s. 6.

[1] *Section 4, Adult Protection Act*

Referral for Service

The *Adult Protection Act* states that the role of Adult Protection workers is to conclude whether or not an adult is in need of protection and to refer him or her on for services which will mitigate his or her protective needs. *Section 7* of the *Adult Protection Act* states:

*Where, after an assessment, the **Minister is satisfied that a person is an adult in need of protection, the Minister shall assist the person**, if the person is willing to accept the assistance, in obtaining services which will enhance the ability of the person to care and fend adequately for himself or will protect the person from abuse or neglect. R.S., c. 2, s. 7.*

Court orders

In relation to court orders, the Adult Protection worker's role is to advise legal counsel to initiate court orders, ensure that notice is given to the relevant parties and to apply for terminations, variations or renewals of orders.

Application for court order

Section 9(1) of the *Adult Protection Act* states:

Where on the basis of an assessment made pursuant to this Act the Minister is satisfied that there are reasonable and probable grounds to believe a person is an adult in need of protection, he may apply to a court for an order declaring the person to be an adult in need of protection and, where applicable, a protective intervention order[2].

Variation, renewal or termination of order

Section 9(6) of the *Adult Protection Act* states:

An application to vary, renew or terminate an order made pursuant to subsection (3) may be made by the Minister, the adult in need of protection or an interested person on his behalf, or a person named in a protective intervention order upon notice of at least ten days to the parties affected which notice may not be given in respect of a protective intervention order earlier than three months after the date of the order[3].

2.6.1 POLICY

Adult Protection workers are required to administer and abide by the *Adult Protection Act*, the *Canadian Charter of Rights and Freedoms* and other applicable provincial and national legislation and Department of Health and Wellness policies and procedures.

Responsibilities of Adult Protection workers include:

1. Case managing the Adult Protection client (in relation to his or her protection needs);
2. Administering the *Adult Protection Act*;

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[2] *Section 9(1), Adult Protection Act*
[3] *Section 9(2), Adult Protection Act*

3. Investigating, assessing and referring Adult Protection clients for services;
4. Initiating applications to the court and ensuring notice is given to clients and substitute decision makers and family members (as appropriate);
5. Submitting evidence to the court through affidavits and testifying (as required);
6. Creating care plans to address client's protection needs;
7. Following up with adults in need of protection to ensure their protection needs have been addressed.

1. Case Management Role

Once an individual becomes an Adult Protection client, the assigned Adult Protection worker becomes responsible for his or her electronic and hard copy file. The worker ensures that all relevant documentation is on the client's file and that the file is updated in a timely manner.

The Adult Protection worker is responsible to *lead* the investigation to identify if the client meets the criteria of an adult in need of protection. He or she gathers evidence from the Adult Protection client and collateral sources such as family members, neighbours and health professionals to determine if the adult reasonably and probably is in need of protection.

During the course of the investigation and assessment, the Adult Protection worker may approach medical practitioners and/or other health professionals to conduct additional assessments of the Adult Protection client to provide clarity as to whether or not an adult meets the criteria of an adult in need of protection. This evidence is brought forward as part of the overall Adult Protection Risk and Capacity Assessment.

2. Administering the *Adult Protection Act*

Adult Protection workers are considered to be designates under the Minister of Health and Wellness for the purposes of Adult Protection. Therefore, they are responsible to represent Adult Protection and the Department of Health and Wellness with stakeholders and in the community. This entails publicly supporting Adult Protection and Department of Health and Wellness policies and practices.

Adult Protection workers, as required, will also sign documents related to Adult Protection interventions on behalf of the Minister of Health and Wellness.

3. Investigating, Assessing and Referring Clients for Services

Adult Protection workers must comply with all of the policies in the Adult Protection Policy Manual.

Adult Protection workers *will refer* adults in need of protection who meet the criteria for a *Section 7* for services which will address their protection needs.

In situations where the Adult Protection client *does not* meet the criteria of an adult in need of protection, the Adult Protection worker *may refer* the client for services if he or she *is able and willing to consent* or if he or she has an appropriate substitute decision maker who is able and willing to consent for services. However, because the client is not in need of protection, he or she would not be eligible for a priority of service.

4. Initiating Applications to the Court

Adult Protection workers are responsible to advise legal counsel to initiate court applications and to ensure that notice is provided to the client, substitute decision maker and family (if appropriate) for various court orders including:

I. *Section 8, Order for Entry*- This intervention would be required if an Adult Protection client and/or the person responsible for the 'care and control' of the adult refuses to consent for an assessment.

II. *Section 9, Application for Court*- The worker submits the evidence gathered in the investigation and assessment stages to the court. The worker presents care and follow up plans (based on the protective needs of the client) as part of the overall submission to the court. The worker is responsible to submit *all* evidence relating to the determination of the adult being in need of protection.

III. *Section 10, Removal for Protection*- In a situation where there are reasonable and probable grounds to believe that an Adult Protection client is in imminent danger, the Adult Protection worker will authorize (in consultation with his or her Adult Protection supervisor) the removal of a client to a place of safety.

5. Submitting Evidence to the Court

In addition to applying for court orders, Adult Protection workers are responsible to provide evidence to legal counsel and to testify in court for Adult Protection matters. Workers also execute orders as directed by the court.

6. Creating Care Plans

Adult Protection workers must develop care plans for all adults in need of protection. The care plan contains the action plan for the client; referrals and recommendations for services and/or family involvement which will mitigate the significant risks in which the client is living. In situations where the client is subject to a court order, this care plan is submitted to the court.

7. Follow-up Planning

Follow-up planning is also an area of responsibility for an Adult Protection worker. The Adult Protection worker must follow up with the Adult Protection client to determine whether or not the care plan agreed to under a *Section 7* or imposed under a *Section 9* has, in fact met the protection needs of the adult.

If the Adult Protection worker finds that the Adult Protection client's protection needs are not being met by the care plan, he or she must adjust the plan. If the client was referred for services, this may mean referring to a different service or working with the service provider and/or the family to ensure that the protection needs of the adult are being met. If the client is under a court order, this could mean a variation or renewal of the order.

General Duties

Adult Protection workers are responsible to comply with all applicable legislation and Government, Department of Health and Wellness, Continuing Care and Adult Protection policies. They are required to follow the duties and responsibilities as outlined in their job description and to adhere to the Nova Scotia Association of Social Workers' Code of Ethics and Standards of Practice.

Policy: 2.7 Role of Legal Counsel

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

2.7 PURPOSE

The role of legal counsel is to support the work of Adult Protection by providing legal advice, preparing the Adult Protection team for court and fulfilling the requirements of the court hearing. Specifically, legal counsel performs the following functions:

- Represents the Minister of Health and Wellness in Adult Protection court matters;
- Provides legal support and advice to Adult Protection workers who represent the Minister;
- Prepares court documents (i.e. affidavits);
- Initiates court applications;
- Files applications and notices to the court;
- Assists Adult Protection workers to prepare to testify for court hearings;
- Consults with legal counsel for guardians ad litem, Adult Protection clients and/or other interested parties;
- Ensures Adult Protection clients, guardians ad litem, other legal counsel and interested parties are served with due notice of the court hearings;
- Ensures Adult Protection clients and the guardians ad litem are served with the affidavit with the evidence supporting the conclusion from Adult Protection that the client is in need of protection;
- Schedules court appearances.

2.7.1 POLICY

Although legal counsel may provide guidance or advice to the Adult Protection team in relation to whether or not court action is warranted and in the best interests of the client, this decision is ultimately the responsibility of the Adult Protection worker, in consultation with his or her supervisor.

Adult Protection workers, in consultation with their supervisors, will consult with counsel if they have any questions or concerns about the Adult Protection client falling under the jurisdiction of the *Act*; particularly if there are any question concerning establishing ‘reasonable and probable grounds’.

Adult Protection workers must disclose *all* of the information gathered in an investigation related to the determination of whether or not the client meets the criteria of an adult in need of protection and what services would meet the client’s protection needs. This

includes all information gathered in previous Adult Protection investigations and/or interventions.

Policy: 2.8 Role of Guardians ad Litem	
Effective date: February 8, 2011	**Version:** New Policy
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2.8 PURPOSE

A guardian ad litem is a person appointed to represent an individual in court for a specific legal action, application or proceeding. The words “ad litem” is Latin for “of the suit”, meaning law suit or legal action.

In Adult Protection court proceedings, the purpose of the guardian ad litem is to represent Adult Protection clients’ expressed wishes or their best interests if they have not previously expressed their wishes.

It is important to note that the guardian ad litem is *only to represent the Adult Protection client in relation to the court hearing*. This role differs greatly from the role of a ‘guardian of the person’ which can only be bestowed by the court through an application under the *Incompetent Persons Act* in Nova Scotia.

Guardians ad litem are not appointed through the *Adult Protection Act*; they are appointed according to the *Family Court Rules of Nova Scotia* and the *Civil Procedures Rules of Nova Scotia Court of Appeal and Supreme Court*. A guardian ad litem is appointed by the court if there is a reasonable and probable belief that the Adult Protection client does not have the mental capacity to instruct counsel. Guardians ad litem must secure legal representation for themselves for the court hearing.

Section 5.05 of the *Family Court Rules* states:

1. *Subject to subrule (2) a person under disability shall commence or defend a proceeding by a guardian ad litem unless the court otherwise orders;*
2. *A person under the age of majority is not required to commence or defend a proceeding by a guardian ad litem unless the court so orders;*
3. *Unless a Rule otherwise provides, anything in a proceeding that is required or authorized by the Rules to be done by a party shall or may, if the party is a person under disability, be done on the person's behalf by the guardian ad litem;*
4. *A guardian ad litem of a person under disability shall act by counsel*[1]*.*

Section 6.02 of the *Civil Procedures Rules of Nova Scotia Court of Appeal and Supreme Court* states:

1. *A person under disability shall commence or defend a proceeding by his litigation guardian. [E. 80/2(1)]*

[1] *Section 5.05, Family Court Rules*

2. *Unless a rule otherwise provides, anything in a proceeding that is required or authorized by the rules to be done by a party shall or may, if the party is a person under disability, be done on his behalf by his litigation guardian. [E. 80/2(2)*
3. *A litigation guardian of a person under disability shall act by a solicitor. [E. 80/2(3)] [Amend. 20/6/94]*[2]

According to the *Guardian ad litem Handbook* (May 2004), the following are listed as suggested duties of the guardian ad litem:

- To gather information about the circumstances and the values of the Adult Protection client; this involves interviewing the client and may involve speaking with collateral sources such as family members (it is important to note that the information gathered is only in relation to the adult protection matter).
- To analyze the information gathered to formulate an opinion on the best interests of the Adult Protection client and to present this evidence to the court;
- To report any concerns that may come up while gathering information *in relation to the adult protection matter* to the appropriate authorities (this may be in relation to the original court hearing or for reviews, variations or terminations of orders);
- To represent the Adult Protection client's best interests before the court.

The following are listed as limitations on the role of the guardian ad litem; the guardian does not:

- Have any responsibility for or control over the finances or personal decisions of the Adult Protection client;
- Advocate or represent the Adult Protection client in any matters other than those involved with the specific Adult Protection court hearing;
- Represent the Department or Minister of Health and Wellness; the guardian ad litem is only to represent the interests of the Adult Protection client.

2.8.1 POLICY

Adult Protection workers are to only interact with the guardians ad litem if they contact the worker directly for specific information related to the Adult Protection client, the investigation, intervention and recommendations for the care plan.

The Adult Protection worker must not release the client's file or affidavit to the guardian ad litem. If the guardian requires information, legal counsel will provide him or her with the affidavit, including the Adult Protection Risk and Capacity Assessment, care plan and follow up plan.

The worker shall approach any interaction with the guardian ad litem in a similar manner as he or she would with the Adult Protection client. The worker will respond to queries

[2] *Section 6.02, Civil Procedures Rules of Nova Scotia Court of Appeal and Supreme Court*

with facts; this may include specific information from the assessment and conclusions and recommendations made by Adult Protection.

The Adult Protection worker shall not provide personal or professional opinions or take part in any conjecture about the client with the guardian ad litem. The Adult Protection worker must inform legal counsel of any interaction with a guardian ad litem; specifying the request and the response to the guardian ad litem by the worker.

Policy: 2.9 Role of the Courts

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Signature: ***Original signed by Kevin McNamara***	

2.9 PURPOSE

Adult Protection matters are heard before the Nova Scotia Supreme Court Family Division in the Halifax and Cape Breton regional municipalities and by the Nova Scotia Family Court in all other jurisdictions. These courts are governed by the *Family Court Act*, the *Family Court Rules* and the *Civil Procedures Rules of the Nova Scotia Court of Appeal and the Supreme Court*.

In Adult Protection hearings, the main role of the court is to:

i. Appoint a guardian ad litem (if appropriate) for the Adult Protection client;

ii. Determine if the adult is or is not in need of protection based on the evidence brought forward by both the Minister and the client and his or her legal representation;

iii. Authorize the Minister of Health and Wellness to take action (to assess, remove or refer for services for the client);

iv. Ensure the Adult Protection client's legal rights and privileges have been protected;

v. Protect the adult in need of protection from others who are a source of danger to him or her by making a protective intervention order;

vi. After making a court order for services, advise the Public Trustee if there appears to be no guardian to act on behalf of the Adult Protection client or if there is a guardian or a person acting pursuant to a power of attorney who is neglecting or dealing with the estate contrary to the best interests of the adult in need of protection;

vii. Approve the care plan put forward by the Adult Protection worker for the adult in need of protection.

There are three different types of court applications under the *Adult Protection Act*:

1. ***Section 8 Order for Entry*** is required where an Adult Protection client and/or the person who has care or control over the client are refusing to consent for an Adult Protection assessment.

The role of the court is to assess the merit of the *Section 8* application and to grant the order if reasonable and probable grounds exist to substantiate that the Adult Protection client is an adult in need of protection.

2. ***Section 9 Application for Court Order*** - this application is for the court to determine whether or not an Adult Protection client is an adult in need of protection and to authorize the Minister of Health and Wellness to refer for services which will address the adult's protection needs.

   This application is also for protective intervention orders prescribing the limitations of access for people who are a source of danger to the adult in need of protection.

3. ***Section 10 Removal for Protection***- in situations where the Adult Protection worker, in consultation with his or her supervisor, determines that an Adult Protection client is living at significant, imminent danger, he or she removes the person and applies to the court within five business days of the removal.

   The court weighs the evidence submitted by the Adult Protection worker and either determines that the adult is not in need of protection and dismisses the application, or proceeds with an application under a *Section 9* to authorize the Minister to refer for services to the client.

Adult Protection hearings are also conducted for variations, renewals or terminations of court orders.

2.9.1 POLICY

Adult Protection workers must execute court orders as directed by the court.

If an Adult Protection worker anticipates that he or she will be faced with a complex court case that may result in a directive to the Department of Health and Wellness or will be put in a position where he or she may be asked to respond on behalf of all of Adult Protection Services or the Department of Health and Wellness on a particular issue; the worker must inform his or her supervisor as soon as possible and well in advance of the court date.

Policy: 2.10 Role of the Public Trustee

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2.10 PURPOSE

The Public Trustee receives referrals directly from Adult Protection under *Section 13* of the *Adult Protection Act* when an adult is removed from his or her premises for his or her protection and where there are no family members who can assume the role of protecting and administering the person's estate. *Section 13* of the *Adult Protection Act* states:

Where an adult is removed from the premises where he resides to another place pursuant to this Act and it appears to the Minister that there is an immediate danger of loss of, or damage to, any property of his by reason of his temporary or permanent inability to deal with the property, and that ***no other suitable arrangements have been made or are being made for the purpose****, the Minister shall inform the Public Trustee.*

Where the Public Trustee receives information pursuant to subsection (1) and where he is of the opinion that ***his intervention is appropriate****, the Public Trustee may assume immediate management of the estate of that person and may take possession of the property of that person and shall safely keep, preserve and protect the same until*
(a) the Public Trustee determines that it is no longer necessary to manage the estate of the person;
(b) the Supreme Court or a judge thereof has appointed the Public Trustee or another person to be guardian of the estate of the adult in need of protection;
(c) a court finds that the person is not an adult in need of protection; or
(d) the order that a person is an adult in need of protection expires, terminates or is rescinded. R.S., c. 2, s. 13.

The Public Trustee, under the *Adult Protection Act*, may also receive notice from the court if a client is found to be in need of protection *and* he or she either has no guardian or has a guardian or power of attorney who is not acting in the best interests of the client. *Section 9(4)* of the *Adult Protection Act* states:

Where a court makes an order pursuant to clause (c) or (d) of subsection (3), it may advise the Public Trustee that there appears to be no guardian to act on behalf of the adult in need of protection or that it appears that there is a guardian or a person acting pursuant to a power of attorney who is neglecting or dealing with the estate contrary to the best interests of the adult in need of protection[1]*.*

[1] *Section 9(4), Adult Protection Act*

It is important to note that the Public Trustee determines which referrals he or she will accept; he or she has the discretion to refuse referrals which he or she determines are not appropriate.

If the Public Trustee takes over the administration of the estate of an Adult Protection client, he or she has the discretion to continue to administer the estate after the adult is no longer considered to be in need of protection. This is particularly important for adults who are placed in residential care and have no one to administer their estate. *Section 14A* of the regulations for the *Public Trustee Act* state:

Notwithstanding any other Act, where
(a) the Public Trustee is administering the estate of a patient pursuant to Section 59 of the Hospitals Act and the patient is discharged from the hospital; or
(b) the Public Trustee is administering the estate of an adult pursuant to Section 13 of the Adult Protection Act and either the court finds that the person is not a person in need of protection or the order that a person is an adult in need of protection expires, terminates or is rescinded,
the Public Trustee's authority to administer the estate continues until
(c) the Public Trustee determines that it is no longer necessary to manage the estate of the person;
(d) the Supreme Court, or a judge thereof, appoints the Public Trustee or another person to be guardian of the estate of the person;
(e) the Public Trustee receives a revocation of the declaration of competency issued pursuant to the Hospitals Act;
(f) the Public Trustee receives a written medical opinion signed by a physician stating that the physician has performed an assessment of a person's competency and that the physician is of the opinion that the person is competent to manage the person's estate; or
(g) a court determines that the person is competent to manage the person's estate and finances,
and the Public Trustee shall administer the estate in accordance with this Act[2]*.*

2.10.1 POLICY

Adult Protection workers must refer to the Public Trustee in the following circumstances:

- If he or she removes a client under a *Section 9* or *10* of the *Adult Protection Act and* the client has no family members willing and/or able to secure the property for the adult in need of protection, the worker will refer under a *Section 13* of the *Act*;
- If a client meets the criteria of an adult in need of protection *and* appears to have a substantial estate and does not have an enduring power of attorney or guardian.

If any of the above circumstances exist, Adult Protection workers must complete the referral package and send directly to the Office of the Public Trustee (see Appendix D). The worker shall forward the referral information to the Public Trustee by email or mail.

[2] *Section 14A, Public Trustee Act*

A *Section 13* notice must be issued to the Public Trustee by the Adult Protection worker once the adult in need of protection is removed and within 24 hours of the *Section 10* court order being granted *or* the adult being removed from his or her premises.

When an order is varied, renewed or terminated the assigned Adult Protection worker shall forward a copy of the order to the Public Trustee.

The Adult Protection worker must request that legal counsel bring forward evidence to the court in the following circumstances:

- If he or she believes (based on evidence that would support reasonable and probable cause) that there is a guardian or enduring power of attorney who is not acting in the best interests of the client;
- If the client does not have anyone who is able to manage his or her estate.

The court determines if it will advise the Public Trustee under *Section 9(4)* of the *Adult Protection Act*.

2.10.2 BACKGROUND

The Office of the Public Trustee is empowered by the *Public Trustee Act* to:

- manage the estates of living persons who need services of a trustee, guardian, attorney or other fiduciary not readily available in the private sector to such living persons;
- administer estates of deceased persons and has standing to apply for grant of administration or administration with will annexed in any case where no grant of probate or administration has been issued;
- consent to medical or surgical treatment of a mentally incompetent hospital patient when consent cannot be obtained from the patient's guardian, spouse or next-of-kin;
- act as litigation guardian or representative in litigation for minor, incompetent, deceased, missing or unascertained litigants in respect of whom a court makes representation orders.[3]

The Public Trustee has the power to intervene under the *Guardianship Act* (for minors), the *Incompetent Persons Act*, the *Inebriates' Guardianship Act*, the *Probate Act*, the *Civil Procedure Rules*, an order of court, an order of the Governor in Council and under the *Public Trustee Act* or any other *Act*[4].

[3] Retrieved from http://gov.ns.ca/just/public_trustee.asp, January 7, 2009.
[4] *Section 4, Public Trustee Act.*

The Public Trustee also may, on his or her own initiative, make application to the court under the *Incompetent Persons Act* to be appointed guardian of the person and/or the estate if the court so determines[5].

Although the role of the Public Trustee is generally for estate matters, the Public Trustee is listed under various pieces of legislation as the substitute decision maker of last resort[6], such as in the *Hospitals Act*, the *Involuntary Psychiatric Treatment Act* and the *Personal Directives Act*. For those who are referred under these *Acts*, the Office makes decisions related to their health and medical care.

[5] *Section 5, Public Trustee Act.*
[6] Based on a hierarchy contained within the legislation; family members are listed in ascending order before the Public Trustee, the last member of the hierarchy.

Policy: 2.11 Legislation Related to Adult Protection Interventions

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2.11 PURPOSE

It is crucial for Adult Protection workers to have an understanding of a number of *Acts* that may affect Adult Protection clients for two reasons:

1. Throughout the course of an intervention, an Adult Protection client may be subject to a number of pieces of legislation, *or*
2. An Adult Protection worker may conclude that a client may not meet the criteria of an adult in need of protection, but he or she may be eligible for a different type of intervention under another *Act*.

2.11.1 POLICY

Adult Protection workers must be knowledgeable on the following laws:

1. *Canadian Charter of Rights and Freedoms*
   http://laws.justice.gc.ca/en/charter/

2. *Hospitals Act*
   http://www.gov.ns.ca/legislature/legc/statutes/hosptls.htm

3. *Protection of Persons in Care Act*
   http://www.gov.ns.ca/legislature/legc/bills/59th_1st/3rd_read/b110.htm

4. *Involuntary Psychiatric Treatment Act*
   http://www.gov.ns.ca/legislature/legc/bills/59th_1st/1st_read/b203.htm

5. *Criminal Code of Canada*
   http://laws.justice.gc.ca/en/C-46/

6. *Incompetent Persons Act*
   http://www.gov.ns.ca/legislature/legc/bills/60th_1st/3rd_read/b195.htm

7. *Personal Directives Act*
   http://www.gov.ns.ca/legislature/legc/bills/60th_2nd/3rd_read/b163.htm

8. *Homes for Special Care Act*
   http://www.gov.ns.ca/legislature/legc/statutes/homespec.htm

9. *Powers of Attorney Act*
   http://www.gov.ns.ca/legislature/legc/statutes/powers.htm

10. *Freedom of Information and Privacy Act*
    http://www.gov.ns.ca/legislature/legc/statutes/freedom.htm

11. *Nova Scotia Human Rights Act*
    http://www.gov.ns.ca/legislature/legc/statutes/humanrt.htm

12. *Public Trustee Act*
    http://www.gov.ns.ca/legislature/legc/statutes/pubtrust.htm

In addition to knowing the above listed *Acts*, Adult Protection workers are responsible to keep up to date on new legislation that affects Adult Protection clients.

Policy: 2.12 Adult Protection and the *Canadian Charter of Rights and Freedoms*

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2.12 PURPOSE

All government services are governed by the *Canadian Charter of Rights and Freedoms*. All government employees in Canada must first and foremost comply with the *Charter* in all areas of their work.

The *Charter* articulates our national values and was enacted as part of the *Constitution Act, 1982*. The *Constitution* is considered the "supreme law of Canada"; which essentially means that if any national or provincial laws are found to not adequately respect the rights articulated in the *Charter*, the courts can strike them down or require them to be amended.[1]

The *Charter* states that our society has an obligation to afford its' members[2], regardless of individual abilities or conditions, the opportunity to have security and necessities of life while protecting an individual's autonomy and personal legal rights from actions of the government.

In Canada, the *Canadian Charter of Rights and Freedoms* articulates that protecting all individuals' autonomy is of primary importance when delivering any type of government service.

The *Charter* reinforces Canada's values as a democratic state; in democracies, the state has no right to intervene in the life and autonomy of any adult unless there is a significant risk of loss of life and if the person is unable to protect themselves from that risk. This differs from the model of child protection; all children under a certain age are considered to be vulnerable and in need of the state's assistance if they are in an abusive situation or do not have a care provider.

A host of laws in Canada and Nova Scotia also reinforce the value that we hold as a society to provide protection to adults who are not able to protect themselves from abuse and/or neglect. This is reflected in various adult guardianship laws, and provisions in the *Powers of Attorney Act* and medical and personal care legislation that allows for substitute decision makers if an adult is incapacitated.

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[1] Downie, Jocelyn, McEwen, Karen, MacInnis, William. Dental Law in Canada. pp.7, LexisNexis Canada Inc., 2004.

[2] The Charter has a broad application: "s. 7 of the Charter… guarantees fundamental justice to 'everyone,' not only Canadian citizens." This includes: 2[2] Persons not legally in Canada, participants in immigration proceedings, and individuals making refugee claims may all benefit from the application of section 7. (Centre for Constitutional Studies, University of Alberta as retrieved from http://www.law.ualberta.ca/centres/ccs/Current-Constitutional-Issues/Section-7-of-the-Charter-of-Rights-and-Freedoms-.php on September 26, 2008.)

It is important to recognize that the *Adult Protection Act* removes an adult's right to autonomy. It is a very strong measure that could involve court action to impose services or to detain an individual for long periods of time and in many cases, for the rest of their life span.

The following sections of the *Charter* [3] are particularly relevant to Adult Protection:

Section 7 states that everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice[4].

This essentially means that all individuals in Canada have the:

1. Basic right to be alive;

2. Right to liberty, which includes the freedom to act without physical restraint (detention) by the state and extends to an individual's right to make fundamental personal decisions and;

3. Right to security of the person; which includes privacy of the body, its' health and psychological integrity.

Section 8 outlines an individual's right to protection against unreasonable search and seizure. This section of the *Charter* provides individuals with privacy rights against *unreasonable intrusion* by the state. If the investigatory technique used by the state diminishes the individual's reasonable expectation of privacy, it may be considered to be in violation of the *Charter*.

Section 9 of the *Charter* guarantees the right against *arbitrary detainment* and imprisonment. In order to detain an individual, a government agency needs to have reasonable grounds and must have express criteria that guide the detention.

Section 10 of the *Charter* articulates that all individuals have rights upon arrest *or detention*:

- To be informed promptly of the reasons therefore;
- To retain and instruct counsel without delay and to be informed of their right;
- To have the validity of the detention determined by a court and to be released if the detention is not lawful.

Section 15 of the *Canadian Charter of Rights and Freedoms* prescribes how *all* government services are to be delivered:

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[3] [3]Department of Justice Canada. Retrieved on August 12, 2008 from http://laws.justice.gc.ca/en/charter/#garantie

[4] [4][4] Fundamental justice is a legal term that describes how a state agency intervenes with its' citizens in matters where their fundamental rights as dictated by the *Charter of Rights and Freedoms* are secondary to the laws or principles of 'significant societal consensus' such as providing protection from risk if the individual does not have the ability to protect himself or herself. Fundamental Justice is a term in Canadian administrative law that signifies the basic procedural rights that are afforded anyone facing an adjudicative process or procedure that effects fundamental rights.(from http://knowledgerush.com/kr/encyclopedia/fundamental_justice/)

- Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, color, religion, sex, *age or mental or physical disability*;
- All adults are entitled to equal services, *regardless of their capacity to care or make decisions for themselves*;
- Although the capacity to express it may be diminished by disability, adults have a need for self-determination and to *have their person, estate and civil rights protected*.

Therefore, Adult Protection interventions are only appropriate when a person's life is considered to be at significant risk and he or she is unable to protect him or herself from that situation of risk. Individuals who are *unable* to protect themselves will be protected by the Government.

2.12.1 POLICY

All Adult Protection workers must comply with the *Canadian Charter of Rights and Freedoms*.

Workers are to treat individuals who are subject to an Adult Protection intervention, (whether through investigation, assessment, removal or detainment), fairly and with due process[5].

Therefore, Adult Protection workers must:

- Have a clear rationale as to why any Adult Protection intervention is necessary;
- Establish reasonable and probable grounds that a client meets the criteria of an adult in need of protection in order to move from Inquiry to Assessment;
- Use the standardized *Adult Protection Risk and Capacity Assessment* in order to determine if the Adult Protection client reasonably and probably meets the criteria of an adult in need of protection;
- Never remove a person from his or her residence without reasonable and probable cause that the client meets the criteria of being in need of protection and being in imminent danger;
- Explore the least intrusive option (to a client's *autonomy*) at every stage of intervention;
- Inform clients that they are entitled to an opportunity to be heard (in court), to legal representation, to challenge any of the findings of Adult Protection and/or other

[5]This is an issue of fundamental justice, which is a legal term that describes how a state agency intervenes with its' citizens in matters where their rights as dictated by the *Charter of Rights and Freedoms* are secondary to the laws or principles of 'significant societal consensus' such as providing protection from risk if the individual does not have the ability to protect him or herself. Fundamental Justice is a term in Canadian administrative law that signifies the basic procedural rights that are afforded anyone facing an adjudicative process or procedure that effects fundamental rights.(from http://knowledgerush.com/kr/encyclopedia/fundamental_justice/)

professionals involved with the adult protection intervention and to inform them of the anticipated length of detention, i.e. until the court date or if under a court order; six months when the client's situation will be reviewed and possibly varied or terminated;

- Assist the client to attend court if he or she wishes by informing his or her Adult Protection supervisor, in order to make the necessary arrangements and to fill out the Adult Protection Service Authorization form (refer to Policy 3.6);
- Treat all individuals equally without discrimination based on race, nationality, ethnicity, religion, sex, sexual orientation, age or mental or physical capacity.

Policy: 2.13 Adult Protection and the *Criminal Code of Canada*

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

2.13 PURPOSE

In Adult Protection interventions, Adult Protection workers may find evidence of criminal activity which may be subject to the *Criminal Code of Canada*[1]. The following list of offences may be discovered during an Adult Protection investigation (this list is **not exhaustive**).

The following *Criminal Code* offences may apply in physical abuse situations:

- assault (section 265)
- assault with a weapon or causing bodily harm (section 267)
- aggravated assault (section 268)
- unlawfully causing bodily harm (section 269)
- homicide (section 222)
- murder (section 229)
- manslaughter (section 234)
- counseling or aiding suicide (section 241)
- administering noxious thing (section 245)
- forcible confinement (section 279)
- killing by influence on the mind (section 228)
- counselling or aiding suicide (section 241)
- criminal negligence (section 219)

The following *Criminal Code* offences may apply in psychological or emotional abuse situations:

- harassment (section 264(1))
- uttering threats (section 264)
- false messages (section 372(1))
- indecent telephone calls (section 372(2))
- harassing telephone calls (section 372(3))
- threats (section 423)
- intimidation (section 423)

The following *Criminal Code* offences may apply in financial abuse or exploitation situations:

- theft (section 322)
- theft by person holding power of attorney (section 331)

[1] As retrieved from http://www.cnpea.ca/criminal_code_offences.htm, June 5, 2009.

- misappropriation of money held under direction (section 332)
- criminal breach of trust (conversion by trustee) (section 336)
- robbery (section 344)
- stopping mail with intent (section 345)
- extortion (section 346)
- forgery (section 366)
- fraud (sections 386, 387, 388)

The following offences included in the *Criminal Code* may apply in cases of neglect:
- failure to provide necessaries (section 215)
- criminal negligence (section 219)
- causing death by criminal negligence (section 220)
- causing bodily harm by criminal negligence (section 221)
- death that might have been prevented (section 224)

These *Criminal Code* offences may apply in sexual abuse situations:
- sexual assault (section 271)
- sexual assault with a weapon or causing bodily harm (section 272)
- aggravated sexual assault (section 273)
- incest (section 155)

2.13.1 POLICY

If an Adult Protection worker has *reasonable* grounds to believe that criminal activity is or has taken place with an adult who is unable to *mentally* protect him or herself, the worker must report his or her observations to police and immediately inform his or her Adult Protection supervisor.

Additionally, if a worker has reasonable grounds to believe that a child is living in an environment where criminal activity which is putting that child at risk is taking place, he or she must report the matter to police, inform his or her supervisor and refer to Child Protection Services.

If an Adult Protection worker has reasonable grounds to believe that criminal activity is or has taken place with an adult who has the mental capacity to protect him or herself, the worker shall discuss his or her observations with the client and shall refer to the police if the client wishes the worker to do so. The worker's observations and the outcome of the discussion with the client must be noted in the client's file.

If a worker believes that the perpetrator is likely to seriously harm him or herself or another person, the worker must report the matter to police.

Policy: 3.1 Ministerial Authorization

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

3.1 PURPOSE

This authorization allows Adult Protection workers, supervisors and the Adult Protection Coordinator to access hospital records and information which have been deemed necessary for the purpose of conducting an inquiry and/or assessment pursuant to the *Adult Protection Act* and *Section 71(5)(e)* of the *Hospitals Act*.

See Appendix A for a copy of the Ministerial Authorization.

3.1.1 POLICY

Adult Protection staff shall advise health professionals of the Ministerial Authorization if he or she faces any questions in relation to obtaining the client's hospital records and/or relevant information.

In order to respect a client's privacy, the Adult Protection worker must ensure that he or she is only asking for relevant information to the inquiry and/or assessment of the client to establish whether or not he or she meets the criteria of an adult in need of protection.

Policy: 3.2 Hours of Adult Protection Operation

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

3.2.1 POLICY

Adult Protection provides service from Monday to Friday 8:30 a.m. to 4:30 p.m, excluding weekends and holidays.

Adult Protection workers must inform service providers, their clients, family members and/or substitute decision makers as appropriate about the procedures to follow outside of Adult Protection business hours.

This policy repeals *Policy # AP-P-2005-001 Adult Protection After Hours Policy* and *Procedure # AP-PR-2005-001;* approved by Keith Menzies, Executive Director, Continuing Care Branch on June 30, 2005.

3.2.2 PROCEDURES

1. **Non-emergency Situations**

For non-emergency situations, government departments and agencies, service providers, and the general public can call 1-800-225-7225 (the Continuing Care Single Entry Access line), and leave a message. The message should include the name and phone number of the person making the referral, the name and address of the adult suspected to be in need of protection, and the specific reason for concern.

Adult Protection staff will follow-up with an investigation of the situation on the next business day.

2. **Emergency Situations**

(a) **Outside Acute Care Facilities**

For emergency situations government departments and agencies, service providers, and the general public should call 911, if a response is required by fire, police or ambulance.

(b) **Acute Care Facilities**

In the event that a person arrives at an acute care facility and is under an adult protection order, or appears to be an adult in need of protection under Section 3 of the *Adult Protection Act*, and does not need to be admitted to an acute care bed, *and* cannot be safely discharged to home

with the assistance of family, relatives, or a hospital administered program, etc; the acute care facility may choose to provide one-on-one coverage for the safety and protection of the individual, as deemed appropriate by the attending physician. The decision should be made keeping in mind the safety of the individual and the attending staff.

The acute care facility should immediately notify Adult Protection Services by calling 1-800-225-7225 and leaving a message. The message should include the name and phone number of the person making the referral, the name and location/address of the adult suspected to be in need of protection, and the specific reason for concern.

If the individual is found to be an adult in need of protection, Adult Protection shall cover the costs of the one-on-one coverage from the time when the decision was made for the coverage until the time when the adult was determined to be in need of protection.

If Adult Protection determines that the individual is *not* an adult in need of protection, Adult Protection shall not reimburse the acute care facility for this cost.

Adult Protection staff shall follow-up with the adult in need of protection to refer for services, including placement, if deemed necessary, on the next business day.

Policy: 3.3 Assessing an Adult Protection Client's Best Interests

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

3.3 PURPOSE

In Adult Protection, the welfare of the adult in need of protection is of paramount consideration. *Section 12* of the *Adult Protection Act* states:

In any proceeding taken pursuant to this Act the court or judge shall apply the principle that the welfare of the adult in need of protection is the paramount consideration. R.S., c. 2, s. 12.

For Adult Protection purposes, the 'welfare of the adult is of paramount consideration' may also be considered as a *best interests standard*.

'Best interests' is a method for making decisions which aims to be more objective than that of substituted judgment. **A 'best interest standard' is only utilized when an adult no longer has the mental capacity to make his or her own decisions.** It requires the decision maker to think about what the 'best course of action' is for the person. It should not be the *personal views* of the decision-maker.

To use a 'best interests' standard, the decision-maker considers both the current and future interests of the person who lacks capacity, weighs them and decides which course of action is, on balance, the best course of action for him or her in relation to his or her protection needs.[1] In order to determine what is in the person's 'best interests', a number of factors must be considered:

1. The person's past and present stated wishes (and, in particular, any personal directives made while the person had capacity)
2. The values that would be likely to influence his/her decision if he had capacity; and
3. Any other factors that he or she would be likely to consider if he or she were able to do so.

3.3.1 POLICY

All Adult Protection interventions must be in an Adult Protection client's assessed best interests.

In order to assess a client's best interests, the following factors must be considered:

[1] Best Interests: Guidance on determining the best interests of adults who lack the capacity to make a decision (or decisions) for themselves [England and Wales]. A report published by the Professional Practice Board of the British Psychological Society. Retrieved from http://www.bps.org.uk/downloadfile.cfm?file_uuid=448A2D24-1143-DFD0-7E4B-5FA0B872E9C1&ext=pdf on January 6, 2009.

- The assessed level of risk to the Adult Protection client;
- Wishes of the Adult Protection client that were expressed to the Adult Protection worker related to any Adult Protection interventions;
- The documented wishes of the Adult Protection client made while the client had capacity, e.g. a personal directive;
- The previously expressed wishes and/or past patterns of decision making that the client had made in relation to any Adult Protection interventions (to demonstrate the choice the client would most likely have made if he or she had the mental capacity to do so);
- Any known religious and/or cultural values of the Adult Protection client;
- The least intrusive option available for the Adult Protection client;
- The benefits of any chosen intervention will outweigh any negative impact that could occur to the Adult Protection client.

Adult Protection interventions must be considered fair to all Nova Scotians; Adult Protection clients are *not given or denied* any services based on their status as Adult Protection clients. If an adult is found to be in need of protection, he or she is merely able to get *priority* access to services (the same services available to all Nova Scotians).

An Adult Protection worker must consult with his or her Adult Protection supervisor if he or she is unsure as to what decision would be in the client's best interests.

All wishes expressed by the client and/or his or her substitute decision makers throughout the Adult Protection intervention must be documented in the running case notes; along with a summary of whether or not Adult Protection was able to accommodate his or her wishes and the rationale behind the related decisions.

Policy: 3.4 Authorizing Services

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

3.4.1 POLICY

The following costs shall be authorized by Adult Protection:

- One-to-one coverage for clients who have been brought to an acute care facility *after hours* and assessed by a physician to need the coverage for his or her safety and protection; *if* the client is then assessed to be an adult in need of protection[1]. It is important to note that funding for coverage is only provided up to the point where the client has had an assessment and has been determined to be in need of protection;
- Attendant care to monitor the Adult Protection client in the care facility during a transition period *of up to five days* to assist the client to adjust and to have a completed Care Coordination assessment;
- Transportation costs for the client to be brought from his or her home to the initial placement facility if the client is under a *Section 9* or *10*[2];
- Transportation costs for the client to be returned to his or her premises if he or she has been removed under a *Section 10* and then is subsequently found to not be in need of protection;
- Transportation costs for the client to be brought to court for his or her hearing; costs may include ambulance, taxi and attendant care worker's costs;
- Funding for an independent capacity assessor if there is disagreement between medical practitioners *or* if there are no qualified medical practitioners available *or* if there is an additional assessment ordered by the court;
- Funding for a private assessment of risk and/or the physical and/or mental capacity of the client *if there are no other resources available and further evidence is required* to support the Adult Protection Risk and Capacity Assessment;
- Funding for the essential daily needs of clients who have been removed from their premises under *Section 10* of the *Adult Protection Act* and who do not have these items or have access to these items (e.g. toothbrushes, brushes, clothing); this funding is *up to 100 dollars*;

[1] If the adult is found by Adult Protection to not be in need of protection, the District Health Authority will be responsible for covering this cost.

[2] If the adult in need of protection is being referred to services through a *Section 7*, the client is responsible to pay for EHS Services; this may be arranged through the client's family members, the Public Trustee (if the Office has taken over control of the client's estate) and/or the client's power of attorney.

- Medical Observation Form completion costs.

Adult Protection workers must verbally request approval for services from his or her supervisor. The Adult Protection supervisor will approve the request verbally and must follow up with the Adult Protection worker with an email confirming the approval.

Once verbal approval is given, the worker must fill out and sign the Service Authorization form (Policy 3.5) and forward the form to his or her supervisor for signing. The Adult Protection worker will ensure that the supervisor receives the invoice.

The Adult Protection supervisor shall forward the signed form and attached invoice to the Adult Protection Provincial Coordinator.

NOVA SCOTIA
Health and Wellness

Adult Protection Service Authorization Form

To: _____ **Email:**_____

From: _____ **Tel #:**_____
Adult Protection Worker

Client: _____ **HC#:**_____

The following cost is authorized:

Attendant care Start Date: _____ End Date: _____

Transportation costs from client's home to placement facility- ambulance

Transportation costs to return a client to his or her premises after a *Section 10* removal

Transportation costs to court- ambulance

Transportation costs to court - taxi

Transportation costs to court - attendant care workers

Independent capacity assessor

Emergency *essential* daily supplies for a client subject to a *Section 10* removal

Medical Observation form completion fee

Other: _____

Amount Authorized:_____
(Cost not to exceed authorized amount)

Date: _____ Adult Protection worker approval:_____

Date: _____ Supervisor, Adult Protection approval:_____

ATTACH THIS FORM TO THE INVOICE & FORWARD TO THE ADULT PROTECTION PROVINCIAL COORDINATOR.

Policy: 4.1 Meeting the Criteria of Intake and Inquiry

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

4.1 PURPOSE

The Intake and Inquiry stage of intervention is to establish reasonable and probable grounds as to whether or not an adult is in need of protection. *Section 6* of the *Adult Protection Act* states:

Where the Minister receives a report that a person is an adult in need of protection, he shall
(a) make inquiries with respect to the matter; and
(b) if he finds there are reasonable and probable grounds to believe the adult is in need of protection, cause an assessment to be made, and the Minister may, if he deems it advisable, request a qualified medical practitioner to assess the adult, the care and attention the adult is receiving and whether the adult has been abused. R.S., c. 2, s. 6.

There are therefore, two levels to this stage of intervention:

1. **Intake-** the Adult Protection worker receives the referral from the Continuing Care Referral Assistant and follows up with the *original referral source* to substantiate the information contained in the referral;
2. **Inquiry-** the Adult Protection worker moves beyond the referral source and *begins to contact collateral sources*. Collateral sources may be family members, neighbours, health professionals or other people who have first-hand knowledge that would be relevant to the investigation as to whether or not the adult is in need of protection. Collateral sources are named by the referral source and potentially other collateral sources.

4.1.1 POLICY

Intake

At this stage of intervention, the Adult Protection worker contacts the referral source. In order to move forward from Intake to Inquiry, the Adult Protection worker must verify the referral information and establish that there are reasonable[1] grounds that the Adult Protection client would meet the criteria of an adult in need of protection.

If the referral source is unavailable, the Adult Protection worker must move on to collect information from collateral sources if reasonable grounds can be established from the

[1] The benchmark to move from the *Intake* (referral) to *Inquiry* stage of intervention is not as high as the benchmark to move from the *Inquiry* to the *Assessment* stage of intervention. This is because *Intake and Inquiry* is a less intrusive stage than the *Assessment* stage of intervention. Therefore, reasonable cause, not reasonable *and probable* cause must be established at this point.

original referral information. If an Adult Protection worker has any questions as to whether or not enough information exists to substantiate reasonable grounds, he or she must consult with his or her supervisor.

Inquiry

At this stage of intervention, the Adult Protection worker contacts collateral sources for information to establish *reasonable and probable* grounds that the Adult Protection client would most likely meet *all* of the following criteria:

1. The adult is living at a moderate[2], high or extremely high level of risk;
2. The adult is unable to protect him/herself from that risk due to a physical or mental incapacity;
3. The adult has a permanent, irreversible condition that affects his or her physical or mental capacity to protect him or herself from the identified risks.

In order to get enough information related to all three criteria to establish reasonable and probable grounds, Adult Protection workers ask the questions listed in the guidelines to this policy (4.1.3).

Adult Protection workers must continue to ask questions of both the referral and/or collateral sources until *either*:

1. The worker has established that reasonable and probable grounds exist to substantiate that an adult is in need of protection; *or*
2. All information sources have been exhausted.

As soon as reasonable and probable grounds are established that the client meets the criteria of an adult in need of protection, the Adult Protection worker begins the assessment. Similarly, as soon as it becomes apparent that there *are not* reasonable and probable grounds to support that the client is an adult in need of protection, the Adult Protection worker must close the file.

If the Adult Protection worker is unsure as to whether or not he or she has established reasonable and probable grounds to assess, *or* if he or she has exhausted all avenues of information and is not satisfied that reasonable and probable grounds have been established that a client is *not* in need of protection, he or she must consult with his or her supervisor.

In the situation where *all* sources of information have been exhausted, the Adult Protection worker must *at that point*, make a determination of whether or not reasonable and probable grounds exist to substantiate that the adult is in need of protection.

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[2] It is important to note that to move to an assessment, there must be a reasonable and probable belief that the client is living at a *moderate, high or extremely high* level of risk; in order to conclude that an adult is actually in need of protection and requires an intervention under the *Act*, reasonable and probable grounds must be established that an adult is living at a *high or extremely high level* of risk.

4.1.2 PROCEDURES

Intake

1. The Adult Protection worker on Intake receives the referrals from the Continuing Care Referral Assistant (CCRA);
2. The Adult Protection worker on Intake refers to the Adult Protection Risk Continuum (Policy 8.2) and prioritizes referrals into the following categories:
    - extremely high risk;
    - high risk;
    - moderate risk;

- The Adult Protection worker on Intake considers if there is a reasonable belief that a client's life is in imminent danger. If this is the case, the Adult Protection worker must contact the referral source within an hour of receiving the referral;
- All other Adult Protection referrals require an attempted contact with the referral source on the same day.

3. The Adult Protection worker on Intake calls the referral source:

- If the referral source is available, the worker:
    - Explains the Department of Health and Wellness' commitment and limitations to protect confidentiality, e.g. court action; particularly if the referral source requests to remain anonymous;
    - Determines whether the referral information is reliable, valid and credible. Note: If the referral information is not reliable, credible and valid, the worker closes the file;
    - Asks the Intake and Inquiry Questions (4.1.3) to establish reasonable grounds to move to Inquiry;
    - Asks the referral source for any collateral sources to substantiate the referral information and documents the sources in the client's file;
    - Determines if there is sufficient evidence to substantiate reasonable grounds to move forward with Inquiry and consults with his or her supervisor as needed;
    - If there is insufficient evidence to substantiate reasonable grounds, the Adult Protection worker on Intake closes the file;
    - If there is sufficient evidence, the Adult Protection worker on Intake assigns the file to another Adult Protection worker;
    - If further information is required on the referral, the Adult Protection worker on Intake will either:

        - pass on the information via a detailed summary by email to the Adult Protection worker on Intake the following day (and copy the Adult Protection supervisor); or
        - follow up him/herself with the referral source on the subsequent business day, (and inform the Adult Protection supervisor by email), as appropriate.

- If the referral source is not available, the Adult Protection worker on Intake:
    - Determines if there is sufficient evidence to substantiate reasonable grounds to move forward with Inquiry and consults with his or her supervisor as needed;
    - If there is insufficient evidence to substantiate reasonable grounds, the Adult Protection worker on Intake closes the file;
    - If there is sufficient evidence, the Adult Protection worker on Intake assigns the file to another Adult Protection worker;
    - If further information is required on the referral, the Adult Protection worker on Intake will either:
        - pass on the information via a detailed summary by email to the Adult Protection worker on Intake the following day (and copy the Adult Protection supervisor); or
        - follow up him/herself with the referral source on the subsequent business day, (and inform the Adult Protection Supervisor by email), as appropriate.
- Note: If the referral is coming from an unapproved private home, the Adult Protection worker on Intake:
    - Advises the Adult Protection supervisor and legal counsel (as appropriate);
    - Contacts the referral source and determines if there are reasonable grounds to move forward with Inquiry;
    - Finds out how many clients live in the home who may meet Adult Protection criteria (if possible);
    - Asks the referral source not to inform the home operator of the referral to Adult Protection;
    - Assigns Adult Protection worker(s) as appropriate to move to Inquiry or closes the file.
- Note: If the referral is for a Department of Health and Wellness or Community Services approved facility, the worker must inform his or her supervisor and make a referral under the *Protection of Persons in Care Act* by calling 1-800-225-7225.

Inquiry

Once the assigned Adult Protection worker receives file(s) from the Adult Protection worker on Intake, he or she:

1. Refers to the Adult Protection Risk Continuum (Policy 8.2) and prioritizes referrals into the following categories (if more than one file has been assigned):
    - extremely high risk;
    - high risk;
    - moderate risk;

- Considers if there is a reasonable belief that a client's life is in imminent danger. If this is the case, the Adult Protection worker must begin contacting collateral sources within an hour of receiving the referral to determine if an immediate assessment is warranted;
- Begins to contact collateral sources the same day if he or she has determined that based on the referral information, there is not a reasonable belief that the client's life is in imminent danger.

2. Contacts the collateral sources identified by the referral source, and:
    - Explains the Department of Health and Wellness' commitment and limitations to protect confidentiality, e.g. court action; particularly if the referral source requests to remain anonymous;
    - Asks the Intake and Inquiry Questions (4.1.3) to establish reasonable and probable grounds to move to Assessment;
    - Determines if there is sufficient evidence to substantiate reasonable and probable grounds to move forward with the assessment;
    - Asks the appropriate collateral sources the questions in policy 4.8, the Pre-Assessment Risk Screen;
    - Consults with his or her supervisor as needed;
    - If there is insufficient evidence to substantiate reasonable and probable grounds to move forward with an assessment, the Adult Protection worker on Intake closes the file;
    - If there is sufficient evidence to substantiate reasonable and probable grounds that the client meets the criteria of being in need of protection, the Adult Protection worker moves forward with the assessment based on the timelines in policy 5.7 Response Time Standards Inquiry to Assessment;

- Note: If the Adult Protection worker *is unsure if there is sufficient information* to establish reasonable and probable grounds that the client is an adult in need of protection and he or she has exhausted all possible collateral sources, he or she must consult with his or her supervisor;
- The Adult Protection worker proceeds to the Adult Protection Closure Process (Policy 8.4.8) to close the file or proceeds with an assessment.

4.1.3 GUIDELINES

The following questions are to be used as a guideline at the *Intake and Inquiry* stage of intervention to establish reasonable and probable grounds that an individual is an adult in need of protection.

The following list of questions is not exhaustive; depending on the situation, Adult Protection workers may ask additional and/or more specific questions of the referral and/or collateral sources.

Intake and Inquiry Questions for Healthcare Professionals:

1. What brought the adult to the Emergency Room, or to your health service?

2. How did he or she get there?

3. Does he or she frequent the Emergency Room or the health service?

4. What is different today than the last time the adult was seen? Have there been recent changes in his or her behavior?

5. What can you tell me about the adult's physical condition that is concerning you?

6. What have you or your team done prior to this referral for this adult, i.e. other referrals, assessments and/or medical interventions?

7. What are the social supports around this adult?

8. What are the behaviors that you have seen or have been reported to you that give you specific concern?

9. Is this person willing and able to consent for a referral for services? If not, does the adult have a guardian or a substitute decision maker willing and able to consent for a referral for services?

10. What prompted you to make this referral?

11. What do you hope Adult Protection can do for this person?

12. How long has this person been accessing your service or been in hospital? If in hospital, how long do you anticipate that this person will continue to need the hospital's services, how long before he or she can be considered medically stable? *What is the date of discharge*?

13. In your estimation, does this person have a permanent, irreversible condition that affects their physical and/or mental capacity to protect him or herself from risk?

14. Do you think this person is presently unable to continue living in their home?

15. Is the client aware of this referral?

Intake and Inquiry Questions for Community Referrals:

1. Why did you make this referral? Tell me about your specific concerns.

2. What behaviors have you seen recently that are giving you concern? Have there been recent changes in the adult's behavior?

3. What supports and services does this person have now? Previously?

4. Are there family members (or others) involved in this person's care? Does this person have a substitute decision maker, enduring power of attorney or guardian to your knowledge? Are there any concerns?

5. Does this person live alone?

6. Where is this person's home located? What type of housing are they living in (apartment, assisted living, individual home)? Are there any physical environment concerns such as person living close to cliffs, ocean, highway, etc.?

7. How is this person managing his or her personal care? Any concerns?

8. Are there any mobility issues? Would there be any concern with this person getting out of their house in the case of a fire?

9. Do you have any concerns about the state of this person's house or living environment/ arrangements?

10. Have there been any recent falls or wandering incidents?

11. Are there any known health-related concerns that we should know about? Are there any concerns with medication management?

12. Have there been any recent: hospitalizations, medication changes, serious skin or urinary tract infections, weight loss?

13. Does this person have any potential addictions issues?

14. Have there been any recent personality changes in this person?

15. Do you know who this person's doctor is? * Note: this is to have the contact information if at a future point it is needed.

Policy: 4.2 Jurisdictional Boundaries for Intake

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

4.2.1 POLICY

Adult Protection files shall be opened in the district where the client normally lives.

If an Adult Protection client is temporarily residing in another district due to a hospital stay, incarceration or a medical or forensic assessment, the file shall be opened in the district where the adult normally resides.

If a referral is received concerning an adult that normally resides out of province, the Adult Protection file shall be opened in the district that receives the referral.

Policy: 4.3 Contacting Referral and Collateral Sources

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

4.3.1 POLICY

The Adult Protection worker must inform the referral and collateral sources of the following:

- The limitations to anonymity;
- The process of the investigation, assessment and the possible remedies to an Adult Protection intervention; such as referral for services or possibly going to court to impose services;
- The criteria that must be met for an adult to be considered in need of protection;
- The expectations of any person providing information to Adult Protection; how the information will be used and the possibility that the person may be called to testify in court.

4.3.2 GUIDELINE

If a referral and/or collateral sources wish to remain anonymous, the worker may:

- Advise the source(s) that if Adult Protection does not have sufficient information, this could limit their ability to respond to the referral;
- Try to gather as much information as possible while the source(s) are on the phone; such as contact information for additional collateral sources;
- Ask if the source(s) would be willing to leave a contact number for Adult Protection to ask further questions;
- Inform the source(s) that all reasonable attempts will be made to protect his or her identity.

Policy: 4.4 Determining the Reliability and Credibility of Information Obtained from Referral and/or Collateral Sources

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

4.4.1 POLICY

The Adult Protection worker must take the following factors into account when assessing the information gathered from referral and collateral sources:

1. **The availability of first-hand information-** First hand information is considered the most reliable. While second and even third-hand information will be considered throughout an investigation, the Adult Protection worker must always try to establish the original source of the information so the worker can interview that collateral source;
2. **The datedness of the information-** Adult Protection interventions are based on actual risks; if the information is too dated, it is difficult to establish whether the client is still experiencing the reported risks;
3. **The reliability, validity and/or credibility of the information-** If the information given is contradictory *or* if it becomes apparent that the source of the information may have malicious intent *or* if the referral was not brought forward in a timely manner; the information may be discredited or questioned. Also, the worker must consider why there may be any reluctance on behalf of the referral and/or collateral source to be identified as a source of information for the investigation;
4. **The relationship of the source to the client-** It is important to identify what prompted the person to make the referral at that particular time and his or her specific relationship with the client;
5. **Past Adult Protection involvement-** It is extremely relevant to an investigation if the Adult Protection client has had past involvement with Adult Protection. This information is valuable in establishing patterns of behaviour of the client and/or his or her caregiver(s).

Throughout the course of an Adult Protection investigation, the Adult Protection worker must be aware of the following factors which *may affect* the reliability and credibility of the information gathered from referral and/or collateral sources:

- Any stated value judgements from the referral and/or collateral source of the Adult Protection client or his or her situation;
- Any other factors which may affect the referral and/or collateral sources' objectivity and impartiality.

P**olicy: 4.5 Response Times for Intake and Inquiry**

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

4.5 PURPOSE

When considering response times, it is important to note that the Adult Protection Intake process is structured differently across Nova Scotia. In some areas of Nova Scotia, due to a higher volume of referrals, Adult Protection workers take turns doing Intake, reviewing referrals, contacting referral sources and making initial inquiries.

In other areas, there is only one Adult Protection worker, which means that he/she responds to all referrals him/herself.

The following response time standards are to be used in both situations.

4.5.1 POLICY

Responding to the Initial Referral from the CCRA

There are two response time standards for responding to an *initial referral* from the Continuing Care Referral Assistant at Intake:

1. **<u>Immediate Response</u> (within an hour of the Adult Protection worker *receiving* the initial referral) -** An immediate response is required when the Adult Protection worker on Intake has *reason to believe*[1] that an individual's life is in *imminent danger*[2]*.* In this situation, the Intake worker assigns the case and informs his or her Adult Protection supervisor *immediately*. Once the *assigned* Adult Protection worker receives the case file, he or she will decide whether moving to Inquiry or directly to Assessment is appropriate.

   If an Adult Protection worker on Intake decides to move to Inquiry or Assessment based on the information contained in the referral himself or herself and is therefore not able to continue with Intake duties, he or she must have another Adult Protection worker assume the Intake duties. If this occurs, the Adult Protection worker originally on Intake must inform his or her Adult Protection supervisor.

[1] The standard of 'reasonable and probable grounds' does not have to be met at this point. The Adult Protection worker must have a 'reasonable belief' that a person's life may be in imminent danger.
[2] For the purposes of Adult Protection, 'imminent' danger means that the person's life may cease within a 48 hour period. Refer also to *Policy 8.1 Adult Protection Risk Continuum*

2. **<u>Same Day Response</u>-** All other Adult Protection referrals are to be initially followed up on by the end of the business day by the Adult Protection worker on Intake. If further information is required on the referral, the Adult Protection worker on Intake will either; pass on the information via a detailed summary by email to the Adult Protection worker on Intake the following day (and carbon copy his or her Adult Protection supervisor), or will follow up him or herself with the referral on the subsequent business day, (and inform his or her Adult Protection supervisor by email), as appropriate.

If an Adult Protection worker is unable to meet the response time standards, he or she must inform his or her supervisor before the end of the working day.

Responding to the Case File once it has been assigned for Inquiry

There are two responses to respond to a client file at Intake *once it has been assigned* as a case file for Inquiry:

1. **<u>Immediate Response</u> (within an hour of the Adult Protection worker *receiving* the referral from the Adult Protection Intake worker) -** An immediate response is required when the Adult Protection worker has *reason to believe*[3] that an individual's life is in *imminent danger* after reviewing the case file from the Adult Protection Intake worker. In this situation, the Adult Protection worker who has been assigned the case informs his or her Adult Protection supervisor *immediately* if he or she decides to move ahead with an assessment.

2. **<u>24 Hour Response</u>-** All other Adult Protection referrals are to be followed up with initial inquiries within *24 hours*.

If an Adult Protection worker is unable to meet the response time standards, he or she must inform his or her supervisor within 24 hours.

4.5.2 PROCEDURES

1. **<u>Immediate Response-</u>** If an immediate response is required, the Adult Protection Intake worker must relay details of the referral by:

- Telephoning the assigned Adult Protection worker;
- Telephoning his or her supervisor;
- Following up with an email with details of the case and the Intake form in an attachment sent to the assigned Adult Protection worker and copied to the supervisor.

2. **<u>Same Day Response-</u>** If the referral requires a same day response, the Adult Protection worker must relay the details of the referral by:

[3] The standard of 'reasonable and probable grounds' does not have to be met at this point. The Adult Protection worker must have a 'reasonable belief' that a person's life may be in imminent danger.

- Sending an email with details of the case and the Intake form in an attachment sent to the assigned Adult Protection worker.

Policy: 4.6 Referrals from Hospital

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

4.6.1 POLICY

If a referral comes in from a hospital, the Adult Protection worker must:

1. Establish whether the referral is for a client who has been admitted or is in the Emergency Room;
2. If the client has been admitted, establish whether or not there is a discharge plan for the client, including a specific date of discharge;
3. Ask the questions in Policy 4.1 to establish if reasonable and probable grounds exist to substantiate that the Adult Protection client meets the criteria of an adult in need of protection in order to justify moving forward with an assessment.

If the client has been admitted, there must be a date of discharge in order for the client to meet the criteria of an Adult Protection referral.

If the client is being referred directly from the Emergency Room; the Adult Protection worker shall ask the referral source if:

- The client most likely meets the criteria of an adult in need of protection; and
- If a medical assessment has been conducted to establish that the client is medically stable ***and*** that the client does not have a temporary and/or treatable medical condition such as delirium or a mental health condition which would affect his or her capacity to protect him or herself from risk.

If this medical assessment has not been conducted, the Adult Protection worker shall advise the referral source to call Adult Protection directly once the assessment is concluded, confirming that the client does not have a temporary, treatable condition which affects his or her capacity to protect him or herself from risk.

Time standards

If a referral for an Adult Protection client comes in from the hospital and reasonable grounds are established at Intake that the client is an adult in need of protection, Adult Protection will proceed to Inquiry on the same business day (see Policy 4.5).

If, after Inquiry, there are reasonable and probable grounds established that the client is in need of protection, the assigned Adult Protection worker will follow-up with an assessment on the next business day.

4.6.2 RATIONALE

The adult would not be considered to be experiencing *actual* or significant risk unless he or she was facing discharge back into an environment which reasonably and probably is causing him or her to be an adult in need of protection.

Policy: 4.7 Referrals from Homes Not Approved by the Department of Health and Wellness or Community Services

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4.7 BACKGROUND

The *Protection of Persons in Care Act* (*PPCA*) protects individuals against abuse and/or neglect in Department of Health and Wellness or Community Services approved facilities.

Section 2 of the *PPCA* defines approved 'health facilities' under the *PPCA*:

2 *In this Act,*
(a) "health facility" means
(i) a hospital under the Hospitals Act,
(ii) a residential care facility, nursing home or home for the aged or disabled persons under the Homes for Special Care Act, or
(iii) an institution or organization designated as a health facility by the regulations;

This is further defined in *Section 4* of the *PPCA Regulations*:

4 *A home that provides supervisory or personal care to 1 or more persons and is approved and funded either by the Department of Community Services as a small-option home or by the Department of Health as a community-based option is designated as a health facility under the Act.*

4.7.1 POLICY

If a referral comes to the attention of Adult Protection where an adult is living in a home that is not approved by the Department of Health and Wellness or Community Services, the Adult Protection worker must:

- Proceed with the Intake in the same manner as any other Adult Protection investigation;
- Inform the police if there are any allegations of abuse and/or neglect;
- Inform the Department of Health and Wellness and/or Department of Community Services of the allegations and, in the case of an unapproved home, the reported state and presence of the home.

If an Adult Protection worker discovers during the course of an investigation in an unapproved home that there are other adults who may be in need of protection, he or she must:

- Inform his or her supervisor immediately;
- Call the Continuing Care Single Entry Access line to report the situation so the individuals in the home will go through the Intake process.

Policy: 4.8 Pre-Assessment Risk Screen for Workers' Safety Concerns

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

4.8.1 POLICY

When moving forward from the *Intake and Inquiry* stage to the *Assessment* stage of intervention, the Adult Protection worker must consider his or her own safety requirements. He or she must conduct the Pre-Assessment Risk Screen for Workers' Safety Concerns before visiting the client.

If the Adult Protection worker has any concerns after conducting the Pre-Assessment Risk Screen, he or she must inform his or her supervisor and:

- Contact the police for assistance if it is believed there could be risk to him or her while visiting a residence; and/or
- Have a co-worker accompany him or her for the visit; and/or
- Check in with a supervisor or colleague when the visit is completed.

The worker must document any specific concerns in the case notes for the client.

Adult Protection workers must use the sign out sheet in their respective Adult Protection offices to identify their whereabouts and expected time of return for all visits. If a worker does not expect to return to the office by the end of the day, he or she must call his or her supervisor after the assessment is completed.

In addition to conducting the Pre-Assessment Risk Screen, the Adult Protection worker must:

- Check the client's Continuing Care history (if relevant), to identify any potential safety issues, including if the client would be considered 'high risk';
- Have a First Aid kit and a car safety kit in his or her vehicle;
- Consider the neighborhood of client;
- Consider risk management strategies such as leaving his or her shoes on, backing his or her car into the driveway, standing to the side of the door after knocking, etc;
- Exercise universal precautions and professional judgment in determining his/her own safety needs.

4.8.2 GUIDELINES

The following questions are to be used as a guideline to consider the potential safety needs of Adult Protection workers. Workers may direct these questions to collateral and/or referral sources:

1. Does the client live alone? Are there any family dynamics that the worker should be aware of?

2. Are there any pets, and particularly dogs living with the client?

3. Does the client or anyone living with him or her own any weapons?

4. If the worker were to visit the client, is there anything about his or her physical environment that he or she should be worried about?

5. Has there been any history of aggressive behavior demonstrated by the client or any family members?

6. Is there a history of police involvement with the client and/or any family members that the worker should be aware of?

7. Is there cell phone coverage?

8. Is the client currently receiving home care or community-based services? Has he or she received services in the past from Continuing Care?

9. Is there anything that would preclude the worker from assessing the client?

Policy: 4.9 Intake and Inquiry Forms

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

4.9.1 POLICY

The Intake and Inquiry forms will be used to document information gathered on Adult Protection clients in the Intake and the Inquiry stages of intervention. Adult Protection workers must attach the forms to both the hard copy and electronic client files. Refer to Policy 4.9.3 for the Intake form and 4.9.4 for the Inquiry form.

4.9.2 PROCEDURES

Adult Protection workers must comply with the following procedures when filling out the Intake and Inquiry forms.

I. INTAKE FORM

- Write the date and the exact time that the referral was received through Continuing Care Intake.
- Write the date and time that the referral was received by Adult Protection.

Client Information:

- Fill out the client identifying information, their address or location and phone number.
- Identify the client's marital or relationship status, the spouse or partner's name and the client's personal physician contact information.
- Identify whether the client will require communication support. This information is needed to determine whether an interpreter or language therapist will be needed to assist with communication if an assessment is needed.
- Identify if there has ever been any previous Adult Protection involvement; if there was, identify the assigned Adult Protection worker and when the file was closed.
- If there is an open Adult Protection file for the client, check the appropriate box and note the name of the assigned Adult Protection worker.

Referral Source:

- Indicate the name of the referral source, his or her phone number, address and note whether the referral source wishes to remain confidential.

- Note the referral source's relationship to the client.
- Be sure to write down both *attempted* contacts (date, time) and *successful* contacts (date, time). If you need more space to record this information, use the 'Referral Information' space below.

Possible Collateral Sources:

- Write down all possible collateral sources cited by the referral source, their relationship to the client and their contact information.

Referral Information:

- Indicate whether the referral is for a situation of self-neglect, abuse or neglect.
- Document the referral information. Include all the pertinent information that the referral source reported concerning the allegations abuse, neglect, or self neglect and other information that may become relevant, including direct quotes. Identify the information that was directly observed by the referral source and information that the referral source learned from another person.
- Identify if there are allegations of abuse/neglect, the name of the person(s) who are alleged to be abusing/neglecting the client, their relationship with the client and their contact information, if this information is known.

Assessment of Referral Information:

- Assess whether the referral information seems reliable, valid and credible (Policy 4.4), and indicate on the form. If you are unsure as to the validity or credibility of the referral source at any time, consult with your supervisor.

At this point in the Intake you must consider:

- **Do you have enough information to support *'reasonable and probable grounds' that the client would meet the criteria* of an adult in need of protection; *or***
- **Do you have *'reasonable grounds' that the client would meet the criteria*; *or***
- **Do you have *'reasonable and probable grounds' to believe that the client does not meet the criteria* of an adult in need of protection?**

1. If you have reasonable and probable grounds that the client *does not meet the criteria of an adult in need of protection*, close the file.
2. If you have reasonable and probable grounds that the client *does meet* the criteria of an adult in need of protection, proceed to the Adult Protection Risk and Capacity Assessment (Policy 5.15).
3. *If there is not sufficient evidence* to establish reasonable and probable grounds at Intake, but there is sufficient evidence to establish *'reasonable cause'* at Intake, proceed to the Inquiry stage of intervention.

- Document the rationale to support your decision in the corresponding section. Be specific about how the criteria of an adult in need of protection has been reasonably (*and probably if moving to the Assessment stage*) established.

Intake Summary

- Identify whether you will be moving forward with Inquiry, Assessment or closing the file.
- Check the appropriate box for the assessed response time to move from Intake to Inquiry or directly to Assessment.
- Document any additional information in the designated space.

Pre-Assessment Planning

- Fill out the appropriate boxes.
- Note any pertinent information concerning the police in the 'Additional information' section (i.e. reasons police will not assist or be involved, why a referral to the police is not required).
- Indicate that you conducted the Pre-Assessment Risk Screen (Policy 4.8).
- Indicate if you have consulted with the Adult Protection supervisor regarding any concerns in relation to the Pre-Assessment Risk Screen or if there are grounds to believe that a *Section 10* may be required.
- Indicate if you have contacted other service providers (i.e. ambulance, SPCA) check this box. Explain the reason for contacting these service providers in the 'Explain' section.

Sign Off for Intake

- Once the Adult Protection Intake worker assigns the file to an Adult Protection worker, he or she signs and dates the document and the newly assigned Adult Protection worker also signs and dates the form.
- If the Adult Protection Intake worker continues on to make some inquiries before assigning the file, or the worker continues on to an assessment, he or she must sign as the 'Adult Protection Intake Worker' and *again* as the 'Assigned Adult Protection worker for Inquiry/Assessment'.
- Ensure the Adult Protection workers' names are typed on the electronic version of the Intake form.

II. INQUIRY FORM

- Fill out the client's name and health card number.

Collateral Contacts

- Document the name and contact number(s) of the collateral source(s).
- Note the relationship the collateral source(s) have with the client, e.g. daughter, neighbour, friend, etc.

- Document the dates and times of both *attempted* contacts and *successful* contacts.
- Note the reason the collateral source was contacted.
- Check to see whether the collateral source(s) wish to remain confidential or not. If they wish to remain confidential, advise them of the limitations of confidentiality, e.g. if the case goes to court.
- Document the relevant information that is learned from the collateral source(s) in the corresponding area.
- Assess whether the information the collateral source(s) have provided is reliable, credible and valid and check the appropriate box.

At this point in the Inquiry, you must consider:

- **Do you have enough information to support *'reasonable and probable grounds' that the client would meet the criteria* of an adult in need of protection; or**
- **Do you have *'reasonable and probable grounds' to believe that the client does not meet the criteria* of an adult in need of protection?**

- Document the rationale for the decision in the 'Rationale to support the above decision' section, outlining how there are or are not reasonable and probable grounds to believe the client most likely meets the criteria for an adult in need of protection.
- Document any additional information or other information that could be pertinent in the 'General additional information' section. (i.e. Information gathered in the Inquiry stage that is a 'red flag' for you, but you are unable at this point to establish if it is directly related to the criteria for an adult in need of protection.)
- If there is enough evidence to support reasonable and probable grounds to move forward with an assessment, do not contact further collateral sources; move on to the assessment.
- If there is enough evidence to support reasonable and probable grounds that the client does not meet Adult Protection criteria; move directly to the Inquiry Summary part of the Inquiry form.

Inquiry Summary

- Check the appropriate section indicating whether the client's file will be closed after Inquiry or opened for Assessment and indicate the appropriate response times. Provide a summary of the evidence to support the decision in the corresponding section.

Pre-Assessment Planning

- Fill out the appropriate boxes.

- Note any pertinent information concerning the police in the ‘Additional information’ section (i.e. reasons police will not assist or be involved, why a referral to the police is not required).
- Indicate that you conducted the Pre-Assessment Risk Screen (Policy 4.8).
- Indicate if you have consulted with the Adult Protection supervisor regarding any concerns in relation to the Pre-Assessment Risk Screen or if there are grounds to believe that a *Section 10* may be required.
- Indicate if you have contacted other service providers (i.e. ambulance, SPCA) check this box. Explain the reason for contacting these service providers in the ‘Explain’ section.

Sign Off for Inquiry

- The Adult Protection worker assigned to the file for Inquiry signs and dates the document. If there is a different Adult Protection worker assigned to the file for Assessment, he or she also signs and dates the form. If it is the same worker, he or she signs again as the ‘Assigned Adult Protection worker for Assessment’.
- Ensure the Adult Protection workers’ names are typed on the electronic version of the Inquiry form.

Adult Protection Intake Form

Date/Time of Referral to CCRA:	Date/Time of Referral to Adult Protection:

Client Information

Client:	DOB:	Age:	HCN:
Address/location:		Phone number:	
Marital/relationship status:		Spouse/Partner's name:	
Physician contact information:		Phone number:	
Communication support needed (i.e. interpreter, language therapist): ☐ Yes ☐ No		Preferred language:	
☐ Previous Adult Protection involvement	Previous Adult Protection Worker:	Date closed:	
☐ File currently open	Assigned Adult Protection Worker:		

Referral Source

Name:	Phone number:	Wishes to remain confidential? ☐ Yes ☐ No
Relationship to client:	Address:	
Date/time of attempted contact(s):	Date/time of successful contact(s):	

Possible Collateral Sources

Name:	Relationship:	Contact Number(s):
Name:	Relationship:	Contact Number(s):
Name:	Relationship:	Contact Number(s):
Name:	Relationship:	Contact Number(s):

Referral Information

Type of allegations: ☐ Self-neglect ☐ Abuse ☐ Neglect

Referral information:

Person alleged to be abusing or neglecting the client (if known):

Relationship to the client:	Contact information:

Assessment of Referral Information

Does the referral information seem reliable, valid and credible? ☐ Yes ☐ No

Is there sufficient evidence from the referral information to establish `*reasonable & probable grounds*` that the client meets the criteria of an adult in need of protection at Intake (no further inquiry is needed)? ☐ Yes ☐ No (if yes, assign file for assessment)

Is there sufficient evidence to establish `*reasonable cause*` at Intake to move to Inquiry? ☐ Yes ☐ No

Rationale to support the above decision(s):

Intake Summary

☐ **Closed at Intake:**

☐ **Does not meet criteria of an Adult in Need of Protection**

☐ **The risk have been mitigated or resolved**

☐ **Other:**_____

☐ **Opened for Inquiry**

Inquiry Response Time: ☐ **High priority (within 1 hour)** ☐ **Lower priority (within 24 hours)**

☐ **Opened for Assessment**

Assessment Response Time: ☐ **Same day** - ***extremely high risk*** ☐ **2 working days** - ***high risk*** ☐ **5 working days** - ***moderate risk***

Additional Information:

Pre-Assessment Planning

Police Referral: ☐ **Not required**

☐ **Referral made to Police:** ☐ **Police will not be involved** ☐ **Police will investigate** ☐ **Police will assist**

Completed Pre-Assessment Risk Screen (Refer to the ***AP Pre- Assessment Risk Screen***) ☐ **Yes** ☐ **No**

Consulted with supervisor about any concerns with the Pre-Assessment Risk Screen or if there are reasonable and probable grounds to believe that a *Section 10* intervention is required ☐ **Yes** ☐ **Not applicable**

Contacted other service providers? (i.e. ambulance, SPCA) ☐ **Yes** ☐ **Not applicable**

Explain:

Adult Protection Intake Worker (Authorized pursuant to *Section 4* of the *Adult Protection Act*)		
Name:	**Signature:**	**Date:**
Assigned Adult Protection Worker for Inquiry/Assessment (Authorized pursuant to *Section 4* of the *Adult Protection Act*)		
Name:	**Signature:**	**Date:**

(Ensure names are typed on the electronic version of the Intake form)

Adult Protection Inquiry Form

Client Name:	HCN:

Collateral Contact Assessment

Name:	Phone number:	Relationship:
Date/time of attempted contact(s):	Date/time of successful contact(s):	
Reason for contact:	Wishes to remain confidential? ☐ Yes ☐ No	
Relevant information learned:		
Does the collateral information seem reliable, valid and credible? ☐ Yes ☐ No		
Is there sufficient evidence provided to establish reasonable and probable grounds to move to the assessment? ☐ Yes ☐ No		
Rationale to support the above decision:		
General additional information:		

Name:	Phone number:	Relationship:
Date/time of attempted contact(s):	Date/time of successful contact(s):	
Reason for contact:	Wishes to remain confidential? ☐ Yes ☐ No	
Relevant information learned:		
Does the collateral information seem reliable, valid and credible? ☐ Yes ☐ No		
Is there sufficient evidence provided to establish reasonable and probable grounds to move to the assessment? ☐ Yes ☐ No		
Rationale to support the above decision:		
General additional information:		

Name:	Phone number:	Relationship:
Date/time of attempted contact(s):	Date/time of successful contact(s):	
Reason for contact:	Wishes to remain confidential? ☐ Yes ☐ No	
Relevant information learned:		
Does the collateral information seem reliable, valid and credible? ☐ Yes ☐ No		
Is there sufficient evidence provided to establish reasonable and probable grounds to move to the assessment? ☐ Yes ☐ No		
Rationale to support the above decision:		
General additional information:		

Inquiry Summary

☐ **Closed after Inquiry:**

- ☐ There `*are not reasonable and probable grounds*` to believe the client is an adult in need of protection
- ☐ The risks have been mitigated or resolved
- ☐ Referral source re-directed to appropriate service
- ☐ Other:_____

☐ **Open for Assessment -** There are `*reasonable & probable grounds*` to believe the client meets the criteria of an adult in need of protection

Response Time: ☐ Same day - *extremely high risk* ☐ 2 working days - *high risk* ☐ 5 working days - *moderate risk*

Summary of the evidence to support the above decision:

Pre-Assessment Planning

Police Referral: ☐ Not required

☐ Referral made to Police: ☐ Police will not be involved ☐ Police will investigate ☐ Police will assist

Completed Pre-Assessment Risk Screen (Refer to the *AP Pre- Assessment Risk Screen*) ☐ Yes ☐ No

Consulted with supervisor about any concerns with the Pre-Assessment Risk Screen or if there are reasonable and probable grounds to believe that a *Section 10* intervention is required ☐ Yes ☐ Not applicable

Contacted other service providers? (i.e. ambulance, SPCA) ☐ Yes ☐ Not applicable

Explain:

Additional information:

Assigned Adult Protection Worker for Inquiry (Authorized pursuant to *Section 4* of the *Adult Protection Act*)		
Name:	**Signature:**	**Date:**
Assigned Adult Protection Worker for Assessment (Authorized pursuant to *Section 4* of the *Adult Protection Act*)		
Name:	**Signature:**	**Date:**

(Ensure names are typed on the electronic version of the Inquiry form)

Policy: 5.1 Meeting the Criteria of the Assessment

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

5.1 PURPOSE

The Adult Protection Assessment begins after reasonable and probable grounds have been substantiated by the Adult Protection worker that the client meets the criteria of an adult in need of protection in the Intake or Inquiry stages of intervention.

Section 3 of the *Adult Protection Act* states:

> *"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*[1]

Adults in need of protection are individuals who do not have the physical or mental capability or *capacity* (stated above as a 'physical disability or mental infirmity') to protect themselves ('unable to make provision for his protection') from abuse or neglect ('not receiving adequate care and attention'). This includes self-neglect ('incapable of caring adequately for himself').

Furthermore, interventions by a government agency can only be justified in situations of significant risk. Therefore, adults in need of protection must be living at an extremely high or high level of risk; which means their life is at risk if left in a situation of self-neglect and if they are experiencing serious psychological or physical harm as a result of abuse or neglect at the hands of others.

Additionally, because an Adult Protection intervention is, in most cases, a fairly extreme measure where adults are placed in residential care, Adult Protection clients must have a permanent, irreversible condition. It is not anticipated that Adult Protection clients will regain their physical or mental capacity to protect themselves from significant risk.

Section 6 of the *Adult Protection Act* outlines the process of Inquiry and Assessment in Adult Protection:

[1] *Section 3, Adult Protection Act*, (1985), as retrieved from http://www.gov.ns.ca/legislature/legc/statutes/adultpro.htm .

Where the Minister receives a report that a person is an adult in need of protection, he shall
(a) make inquiries with respect to the matter; and
(b) if he finds there are reasonable and probable grounds to believe the adult is in need of protection, cause an assessment to be made, and the Minister may, if he deems it advisable, request a qualified medical practitioner to assess the adult, the care and attention the adult is receiving and whether the adult has been abused. R.S., c. 2, s. 6.

5.1.1 POLICY

The Assessment begins *only after* the Adult Protection worker establishes reasonable and probable grounds that an individual is an adult in need of protection at the Intake and Inquiry stage of intervention.

The Adult Protection worker conducts the Adult Protection Risk and Capacity Assessment (refer to Policy 5.15.1 and 5.15.2) to establish whether or not the adult:

1. is living at significant risk;
2. has the physical and/or mental capacity to protect him/herself from that risk;
3. has a permanent, irreversible condition which affects his or her capacity to protect him or herself from risk.

Adult Protection workers assess *indicators* of significant risk. For adults who are *self-neglecting*, significant risk is when the ***adult's life is under threat***[2]. For adults who are *experiencing abuse and or neglect*, they must be experiencing *serious physical and/or psychological harm* as a result of their situation[3].

The determination of *'serious harm'* is a matter of professional judgment and must be based on the individual's unique circumstances. It is important to note that this is essentially an ethical determination; which is why it is crucial if you have any questions or challenges with making or not making a determination of serious harm, you must consult your supervisor.

The Adult Protection worker may refer the client to a qualified medical practitioner to further assess whether or not the adult meets the criteria of an adult in need of protection in the Assessment stage of intervention.

The Adult Protection assessment may contain evidence that is both direct and indirect. If an Adult Protection worker finds indirect evidence of abuse, neglect and/or self-neglect, he or she must always request an assessment from a qualified medical practitioner to substantiate that the indirect evidence is as a result of abuse, neglect and/or self-neglect. Adult Protection workers may find that a substantial amount of indirect evidence may lead to reasonable and probable grounds that abuse, neglect and/or self-neglect is occurring.

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[2] This is not a clinical diagnosis. The Adult Protection worker is expected to apply a 'reasonable' approach to this standard. Would a 'reasonable' person anticipate that the client's life would most likely cease in the near future if there was no Adult Protection intervention?
[3] In order to establish whether a client meets the threshold for intervention, Adult Protection workers must use the Adult Protection Risk Continuum.

The Assessment stage of intervention ends as soon as reasonable and probable grounds are established that an adult does *or does not* meet the above criteria.

If the worker concludes, after conducting the assessment, that he or she does not have enough information to establish reasonable and probable grounds that an adult is **or** *is not* an adult in need of protection, the Adult Protection worker must:

1. Refer the adult to another health professional to conduct an additional assessment; *and/or*
2. Consult with his or her supervisor to decide if a legal consult is warranted.

All of the information gathered in the Assessment stage of intervention must be recorded on the Adult Protection Risk and Capacity Assessment form and running case notes as appropriate by the Adult Protection worker who conducted the assessment.

5.1.2 PROCEDURES

There are numerous steps to the Assessment stage of intervention. An Adult Protection worker is responsible to:

- Analyze the information gathered during the Intake and Inquiry stage of intervention and create an action plan for the assessment;
- Apply for a court order under a *Section 8* (*Order for Entry*) if the client and/or the person who has 'care and control' over the client refuses to comply with the assessment (Refer to Policy 5.3);
- Interview and observe the adult where they are residing at that time;
- Interview and observe the alleged abuser/neglecter and his or her interactions with the client;
- Gather information from all pertinent collateral sources;
- Review any applicable documents and/or assessments;
- Consult with the relevant health professionals, including a medical practitioner to: access additional assessments; determine if the Adult Protection client meets the criteria of an adult in need of protection and to formulate a care plan if relevant;
- Determine the level of risk that the client is living in; whether or not he or she can physically or mentally protect him or herself from the assessed risk; and whether or not he or she has a permanent, irreversible condition;
- Develop a care plan that addresses the protective needs of the client.

Adult Protection Assessment Process

1. The Adult Protection worker plans for the assessment:

- The Adult Protection worker must consider the following:
    - What other professionals need to be involved, e.g. police, another Adult Protection worker, animal control, EHS, VON?
    - If there are reasonable and probable grounds for a *Section 10*, should an ambulance be called?
    - Should family members be called?

2. The Adult Protection worker determines if the referral is for self-neglect or abuse/neglect:

- If self-neglect, the worker:
    - chooses the appropriate assessment form;
    - contacts other professionals and family members as appropriate;
    - informs his or her supervisor.

- If abuse or neglect, the worker:
    - chooses the appropriate assessment form;
    - contacts police and/or other health professionals and/or family members as appropriate to attend assessment;
    - informs his or her supervisor.

3. The Adult Protection worker determines if the client and/or the caregiver or another person is refusing entry or access:

- If the client and/or caregiver and/or another person is refusing access, the worker proceeds to a *Section 8.*

4. The Adult Protection worker determines if the client is available:

- If the client is available, the worker:
    - conducts the Adult Protection Risk and Capacity Assessment;
    - gathers evidence from appropriate health professionals and collateral sources as needed throughout the assessment.
- If the client is not available, the worker:
    - conducts the Adult Protection Risk and Capacity Assessment by gathering information from sources in the following order:
        1. collateral source(s) with first hand knowledge

2. health professionals listed in referral
3. any other sources listed in the referral

- continues to attempt to visit the client.

- If the client continues to not be available, the Adult Protection worker works with the Adult Protection supervisor to:
    - develop a plan of intervention;
    - communicate with the family and health care providers (if appropriate).

5. The Adult Protection worker establishes that there are reasonable and probable grounds that the client is an adult in need of protection. In order to do this, he or she:

- Considers if there are reasonable and probable grounds to believe the client is living at high or extremely high risk using the Adult Protection Risk and Capacity Assessment and the Adult Protection Risk Continuum:
    - if the client is most likely living at high or extremely high risk, the Adult Protection worker moves on to assess the client's physical and/or mental capacity to protect him/herself from the assessed risk;
    - if the client is most likely living at moderate or low risk, the Adult Protection worker:
        - tells the client and the substitute decision maker (if appropriate) the results of the assessment;
        - informs the client about any risks that should be mitigated to prevent future involvement from Adult Protection;
        - refers to an appropriate service if requested by the client
        - writes actions taken and follow up in the client's file;
        - closes the file.

6. The Adult Protection worker determines whether or not there are reasonable and probable grounds that the client does, or does not have the physical and/or mental capacity to protect him/herself from the assessed risk:

- If the client has the mental and physical capacity to protect him/herself from the assessed risk, the Adult Protection worker:
    - tells the client and the substitute decision maker (if appropriate) the results of the assessment;
    - informs the client about any risks that should be mitigated to prevent future involvement from Adult Protection;
    - refers to an appropriate service if requested by the client;

- writes the actions taken and follows up in the client's file;
- proceeds to the Adult Protection File Closure Process to close the file.

- If the client reasonably and probably does not have the physical or mental capacity to protect him/herself from the assessed risk, the Adult Protection worker moves on to assess whether or not the client most likely has a permanent, irreversible condition affecting his/her capacity (meets the adult in need of protection criteria). In most cases, the Adult Protection worker will have to have medical evidence to substantiate whether or not the client has a permanent, irreversible condition which affects his or her capacity.

7. The Adult Protection worker determines if there are reasonable and probable grounds that the client meets the criteria for an adult in need of protection:

- If the client most likely has a permanent, irreversible condition which affects his/her capacity; the Adult Protection worker proceeds to the Care Planning stage of intervention;
- If the client most likely does not have a permanent, irreversible condition; the Adult Protection worker:
  - tells the client and the substitute decision maker (if appropriate) the results of the assessment;
  - informs the client about any risks that should be mitigated to prevent future involvement from Adult Protection;
  - refers to an appropriate service if requested by the client and/or statutory decision maker;
  - writes actions taken and follow up in the client's file;
  - closes the file.

5.1.3 GUIDELINES

Possible Warning Signs of Abuse/Neglect:

When certain factors are present there is an increased likelihood that a person may be abused and/or neglected. The presence of these factors *does not automatically prove* that a person is being abused and/or neglected, but increases the possibility of abuse and/or neglect. The following list of factors is not exhaustive.

Factors which *may* be present for the potential abuser/neglecter:

- Active substance abuse
- Active mental health problems
- Compromised physical health

- Lack of caregiving skills or knowledge
- Lack of knowledge or understanding of the client's condition; which may include unreasonable expectations of the client's abilities
- High care level demands
- History of violence within the family (marital violence/abuse, child abuse)
- History of family dysfunction
- History of the alleged abuser abusing the client and/or others
- A sudden and persistent change in lifestyle due to the care demands
- Financial difficulties
- Financially dependent on the client
- Did not voluntarily take on the responsibility of caring for the client

Policy: 5.2 Jurisdictional Boundaries for Assessments

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

5.2.1 POLICY

If it is not reasonably feasible for the Adult Protection office where a client normally resides to conduct all or part of an assessment, the Adult Protection office where the client is temporarily located shall assist the client's office by interviewing the Adult Protection client and collateral sources as required.

If an Adult Protection office requires assistance with an assessment, a request must be made by that office's Adult Protection supervisor to the Adult Protection supervisor in the office where the client is temporarily residing.

Requests and responses to the requests must be conducted by e-mail and hard copies of the requests and responses must be attached to the client's paper file.

If an Adult Protection worker is assisting another office with an assessment, the assisting worker will keep the primary worker apprised of any relevant information concerning the client and forward all documentation to the primary Adult Protection worker.

The primary and assisting Adult Protection workers shall both be responsible for filling out the Adult Protection Risk and Capacity Assessment form. The assisting worker shall fill out the information collected during the visit(s) on the form and in the running notes as appropriate. The primary Adult Protection worker shall fill out the rest of the form and be the person responsible for filing the form and attaching it to the client's paper file.

The Adult Protection office where the client normally resides shall be responsible for all decisions related to the assessment and/or care planning for the Adult Protection client.

Policy: 5.3 Order for Entry: *Section 8*

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

5.3 PURPOSE

An Adult Protection Order for Entry is a court order which allows Adult Protection workers to enter a residence to assess a client if the Adult Protection client and/or a person, who has care and control of the client, has refused to consent for an Adult Protection assessment.

The order authorizes Adult Protection, police officers, medical practitioners and/or other people specified in the court order to enter the residence without the consent of the Adult Protection client and/or the person who has care and control of the client. *Section 8(2)* of the *Adult Protection Act* states:

Where the Adult who is being assessed refuses to consent to the assessment or a member of the family of the adult or any other person having care or control of the adult interferes with or obstructs the assessment in any way, the Minister may apply to the court for an order authorizing the entry into the building or place by a peace officer, the Minister, a qualified medical practitioner or any other person for the purpose of making the assessment, and where

(a) the Minister has given as least 4 days notice of the hearing to the Adult or the person having care and control of the adult, or

(b) the Minister has applied ex parte and the court is satisfied there are reasonable and probable grounds to believe that the person who is being assessed is in danger,

*the court may grant the order after making due inquiry and being satisfied that there are reasonable and probable grounds to believe that the person who is being assessed is an adult in need of protection.", **1985, c.2,s.8, c. 52, s.1.***

5.3.1 POLICY

If an Adult Protection client and/or a person, who has care and control of the client, do not consent to an assessment, the worker shall make every reasonable attempt to explain the consequences of refusing to consent for an assessment in plain language to both the client and/or the person who has care and control of the client.

The worker must explain:

- The next step may be to go to court to obtain an order which will allow the worker, a peace officer and/or a medical practitioner to enter the residence;

- The nature of the assessment, including how long the worker anticipates it will take for the visit;
- The benefits of the assessment to the client, if they are in fact, in need of protection.

At this point, if:

- The Adult Protection worker is prevented from or is unable to present these options to the client and/or the person who has care and control of the client; or
- The Adult Protection worker is unable to identify and enlist another family member or substitute decision maker to intervene; or
- Other family members and/or a substitute decision maker is unsuccessful in intervening; *and/or*
- The client and/or person who has care and control of the client continue to refuse to consent for an assessment;

The Adult Protection worker must consult with his or her supervisor to determine whether a *Section 8* is warranted.

If the Order for Entry is warranted; the Adult Protection worker and his or her supervisor must determine if the Adult Protection client is most likely (based on reasonable and probable grounds) in danger. If the worker and supervisor determine that the client is most likely in danger, the worker shall notify legal counsel and apply to the court for an application that will be heard ex parte; or without notification to the client and/or the person who has care and control of the client. If the client is not in danger, the worker shall notify legal counsel, who shall provide four days' notice to the client and/or the person who has care and control of the client as appropriate.

If the Order for Entry is granted, the Adult Protection worker shall contact the police to request the assistance of a peace officer for the execution of the order or the conveyance of an Adult Protection client if required.

It is important to note that the Adult Protection worker must call 911 if he or she has a reasonable belief that the client or anyone else in or around the residence is in immediate danger.

5.3.2 PROCEDURES

If the client and/or person who has care and control of the client has refused to consent to the assessment, proceed with the following steps:

- Ensure the client and the person who has control over the adult are both advised of the possibility of a court order application for an order for entry. Explain the process and rationale in plain language.

- When assessing reasonable and probable grounds for an intervention refer to Policy 2.1 and Policy 8.2.

- If it is possible, have a short conversation with the client and/or person who has care and control of the client to assess their understanding and appreciation of a *Section 8* order:

    - If the client and/or the person who has care and control of the client *are able* to demonstrate capacity to consent to the assessment, *but there are* still reasonable and probable grounds to believe the client meets the criteria for an intervention, consult with the Adult Protection supervisor and contact legal counsel to initiate a *Section 8* application.

    - If the client and/or the person who has care and control of the client *are able* to demonstrate capacity to consent to the assessment, *but there are not* reasonable and probable grounds to believe the client still meets the criteria for an intervention, consult with the Adult Protection supervisor and close the file.

    - If the client and/or the person who has care and control of the client *are not able* to demonstrate capacity to consent to the assessment *and there are* reasonable and probable grounds to believe the client meets the criteria for an intervention, consult with the Adult Protection supervisor and contact legal counsel to initiate a *Section 8* application.

- *If it is not possible* to have a conversation with the client and/or the person who has care and control of the client to assess their understanding and appreciation of a *Section 8* order *and* there is not an appropriate family member or substitute decision maker that is able and willing to assist to gain access to the client, then consult the Adult Protection supervisor and contact legal counsel to initiate a *Section 8* application.

- *If there is* family member or substitute decision maker that is able and willing to assist to gain access to the client then make the arrangements with them.

    - *If entry is granted*, assess the client.
    - *If entry is not granted*, *and there are* reasonable and probable grounds for an intervention, consult with the Adult Protection supervisor and contact legal counsel to initiate a *Section 8* application.

    - *If entry is not granted and there are no longer* reasonable and probable grounds for an intervention, consult with the Adult Protection supervisor and close the file.

- If, at any time, there is a reasonable belief that the client or anyone in or around the residence is in immediate danger, call 911 for assistance.

- If a *Section 8* application is made and an order is granted, contact the police for assistance, to visit the client's home to initiate the court order and conduct the assessment.

- If a *Section 8* application is made and *an order is not granted*, close the file.

Policy: 5.4 Police Assistance

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

5.4 PURPOSE

Under the *Adult Protection Act*, police officers are required to assist Adult Protection workers with the execution of court orders and/or the conveyance of clients if requested by Adult Protection. *Section 15* of the *Adult Protection Act* states:

A peace officer shall assist with the execution of an order issued pursuant to this Act or with the conveyance of an adult in need of protection to a place directed in accordance with this Act when requested to do so by a person acting for the Minister or pursuant to an order of the court. R.S., c. 2, s. 15.

5.4.1 POLICY

The Adult Protection worker must contact the police for assistance if the following circumstances exist:

1. There is evidence to suggest the client will not cooperate with the conveyance of an order;
2. There is evidence to suggest the person who has care or control of the client will not cooperate with the conveyance of an order and/or may demonstrate a threat to the Adult Protection worker and/or the client;
3. An *Order for Entry* (*Section 8*) has been granted by the court to assess the client;
4. There is evidence to suggest the client will most likely demonstrate physically aggressive behaviors during an intervention or assessment (including threats to harm him/herself or others);
5. There is evidence to demonstrate that there most likely has been a violation of an Adult Protection Protective Intervention order;
6. Based on the information given in the Intake and Inquiry stage of intervention, the Adult Protection worker has a reasonable and probable belief that the client is in need of protection *and* has been abused and/or neglected (See Policy 5.5);
7. The Adult Protection worker is unable to gain entry into a client's home for an assessment and there is evidence to suggest the client's life is in *immediate danger*;
8. The Adult Protection worker determines by the Pre-Assessment Risk Screen that there may be a danger posed to him/herself during the visit to the client;

9. A client who is under an Adult Protection order has left a care facility and needs to be returned to that facility. This referral would be coordinated with the care facility[1].

If an Adult Protection worker requires police assistance, he or she must complete the *Section 15* Form (Policy 5.15.9).

[1] The care facilities would contact the police directly to return the client to the facility. The facility would be expected to contact Adult Protection as well. This part of the policy has been added in the unusual case where a facility may not have contacted the police directly.

Policy: 5.5 Referrals to the Police

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

5.5.1 POLICY

In situations where an Adult Protection worker believes that a client *who is unable to protect him or herself due to a mental incapacity* is experiencing physical, sexual or psychological abuse which would most likely constitute a criminal offence under the *Criminal Code of Canada*, the worker *must refer* the matter to police. The worker must inform the client of the referral.

If an adult is unable *to protect him or herself from abuse due to a physical incapacity*, the Adult Protection worker *must offer* to refer the matter to the police. If the client consents, the Adult Protection worker must refer the matter to the police. If the client refuses, the Adult Protection worker must inform him or her of the services available to him or her which support adults in domestic violence situations. The Adult Protection worker must offer to refer the client to those services.

If the adult is considered to have the mental and physical capacity to protect him or herself from abuse, the Adult Protection worker must inform him or her of the services available to him or her which support adults in domestic violence situations. The Adult Protection worker must offer to refer the client to those services.

If a referral has already been made to the police, the Adult Protection worker must consult with the police first to determine if the police will be investigating and if a joint investigation would be appropriate. If a joint investigation is not warranted, the Adult Protection worker must consult with the police to ensure that proceeding with the Adult Protection investigation will not compromise the police investigation.

Refer also to Policy 2.13.

Policy: 5.6 Referral for EHS Services

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

5.6 BACKGROUND

Emergency Health Services (EHS) provides pre-hospital emergency care through the EHS ground ambulance service and the EHS Life Flight Service.

5.6.1 POLICY

Intake and Inquiry

At the Intake and Inquiry stage of intervention, if an Adult Protection worker concludes that there are reasonable and probable grounds to support that a client requires immediate medical intervention *and* the client meets the criteria of an adult in need of protection, the worker must contact EHS *immediately* (before the visit or assessment).

If the client *does not* meet the criteria of an adult in need of protection, but does appear to need immediate medical attention, the Adult Protection worker shall advise the referral source to contact EHS immediately.

Assessment

If, after the assessment, the Adult Protection worker concludes that the client *is most likely* in need of emergency medical attention, he or she must contact EHS services directly.

If the client *does not* meet the criteria of an adult in need of protection *but* still most likely requires emergency medical service, the Adult Protection worker shall advise the substitute decision maker, family member, caregiver or support person to contact EHS. If the family member, substitute decision maker, support person or the client him or herself requests that the Adult Protection worker call EHS or if they are not able to call themselves, the Adult Protection worker must call EHS on behalf of the client.

If a client meets the criteria for a *Section 7* intervention and requires transportation to the placement facility, the Adult Protection worker will contact EHS for transportation of the client and will inform the substitute decision maker.

If a *Section 9* court order for placement has been granted and assistance is needed with transporting the client to the placement facility, the Adult Protection worker will contact EHS for transportation of the client.

If the client is subject to a *Section 10* removal, the Adult Protection worker must contact EHS for the removal of the client.

When contacting EHS for assistance, Adult Protection workers must advise the EHS dispatchers of the following:

- Any relevant information concerning the Adult Protection client that could affect the EHS intervention or impact the safety of the EHS paramedics;
- Any known relevant health information;
- If there will also be police involvement;
- The location of the placement facility, if appropriate.

For emergencies, Adult Protection workers call 911; for non-emergencies, workers call 1-888-346-9999.

Policy: 5.7 Response Times for Assessment

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

5.7 PURPOSE

In order to move from the Intake and Inquiry to the Assessment stage of an Adult Protection intervention, the Adult Protection worker must demonstrate ***reasonable and probable grounds*** that an adult:

- Is living at a **moderate, high or an extremely high level of risk** (Refer to Policy 8.2);
- Is physically or mentally incapacitated to protect him/herself from that risk; and
- Has a permanent, irreversible condition that affects his/her mental/physical incapacity.

Although an Adult Protection assessment demonstrating a moderate level of risk *would not justify an Adult Protection intervention*, this is considered to be a reasonable benchmark to prompt an Adult Protection *assessment*. This is because the Adult Protection worker only has limited information at the Intake and Inquiry stage of intervention and it is reasonable to believe that an individual who appears to be living at moderate risk at Intake and Inquiry, may, in fact, be *assessed* to be living at a *high* level of risk.

5.7.1 POLICY

As part of his or her determination of whether a client's file will move from Intake and Inquiry to Assessment, the Adult Protection worker must conclude that the client is living at an **extremely high, high or moderate level of risk**.

In order to make this determination, the Adult Protection worker:

- Asks the Intake and Inquiry questions for community and health professional referrals (Refer to Policy 4.1);
- Refers to the Adult Protection Risk Continuum (Refer to Policy 8.2); and
- Uses his or her own professional judgment.

The following are the response times for each level of risk:

1. Extremely High Risk: Requires an assessment on the **same day** of the referral to Adult Protection.

2. High Risk: Requires an assessment within **2 working days** of the referral to Adult Protection.

3. Moderate Risk: Requires an assessment within **5 working days** of the referral to Adult Protection.

The Adult Protection worker must inform and consult with his or her supervisor regarding all extremely high risk and high risk situations. If the worker is unsure of the level of risk, he or she must consult with his or her supervisor.

If an Adult Protection worker is not able to meet a response time he or she must inform and consult with the Adult Protection supervisor immediately.

Policy: 5.8 Adult Protection Clients Who Are Not Canadian Citizens

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

5.8.1 POLICY

If a client is referred to Adult Protection who is not a Canadian citizen, the Adult Protection worker proceeds as with any other investigation to determine whether or not the client meets the criteria of an adult in need of protection.

The Adult Protection worker must inform and consult with Citizen and Immigration Canada as soon as he or she is aware that the client is not a Canadian citizen.

Adult Protection workers must inform the Adult Protection client and his or her caregiver and/or substitute decision maker of the following:

- Adult Protection must inform and work in coordination with Citizen and Immigration Canada;
- In order to obtain any services for the Adult Protection client he or she must have a Nova Scotia health card; in order to obtain a health card, the Adult Protection client must have an open application for becoming a permanent resident or Canadian citizen;
- If the Adult Protection client does not have the mental capacity to apply for a health card, the guardian or power of attorney can apply on behalf of the client;
- If the client is not eligible for a health card, he or she *may* still be eligible for long term care or home care; however, he or she will be responsible for all related costs, including health and personal care, accommodation costs, personal allowances and transportation costs (if relevant).

Adult Protection workers must inform their supervisors if they have a referral for a non-citizen of Canada. Supervisors must inform legal counsel and the Provincial Coordinator.

Policy: 5.9 Interviewing for the Adult Protection Assessment

Effective date: February 8, 2011	**Version:** New Policy
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Signature: ***Original signed by Kevin McNamara***	

5.9 PURPOSE

The primary method for collecting information in an Adult Protection investigation is interviewing clients, collateral sources and alleged abusers/neglecters.

5.9.1 POLICY

The Adult Protection worker must conduct a face-to-face interview with the client *and* any alleged abusers/neglecters as part of the Adult Protection assessment process; *unless* interviewing the abuser/neglecter could compromise a criminal investigation or endanger the client and/or the Adult Protection worker.

If there are allegations of abuse and/or neglect of a client, the Adult Protection worker must make arrangements for another worker to attend the interview, if the police are not involved in the situation (refer to Policy 5.4). This will provide for more protection for the Adult Protection worker and will also allow for one worker to interview the client while the other worker interviews the alleged abuser/neglecter.

If the referral of an Adult Protection client has been made *after* the client has been referred to the police, the Adult Protection worker must consult with the police *first* to determine if a joint investigation would be appropriate.

All attempts must be made to interview the client *before* contacting collateral sources and/or alleged abusers/neglecters. If this is not possible or not conducive to the investigation, the Adult Protection worker may contact collateral sources first. *The Adult Protection worker must document the rationale for contacting the collateral sources first in the running notes.*

5.9.2 GUIDELINES

When interviewing clients, the Adult Protection worker should:

- Avoid asking leading questions; always use opened-ended questions;
- Interview the client in a setting where it is believed he or she would be most comfortable;
- Take time to build rapport with the client before attempting to speak to him or her about specific risks or allegations of abuse/neglect;

- Interview the client alone, if possible. If a family member or support person is needed for the interview, ensure the family member/support person understands they are not to respond to questions for the client or to prompt the client;
- If a client has particular communication and/or language needs, arrangements should be made with a professional who specializes in the area of the communication and/or language need (e.g. interpreter or speech therapist) to assist with communication during the interview;
- Use plain language; this may mean adapting the manner of speaking to the client's level of functioning and/or communication needs;
- Not rush the client in his or her responses;
- Listen to the client. If a client expresses his or her discomfort or refuses to answer a non-essential question; cease asking the question. If the answer to the question will affect the outcome of the assessment, come back to the question at a later point and attempt to re-frame the question to attempt to alleviate the client's discomfort. If the client expresses discomfort again or refuses to answer, do not continue asking the question; document on the assessment form or in the running notes that the client refused to answer the question;
- Document any quotes verbatim and/or specific details from the client that support or refute any allegations of abuse;
- Do not interview a client in the presence of an alleged abuser/neglecter.

When interviewing alleged abusers/neglecters, Adult Protection workers should:

- Avoid asking leading questions; always use opened-ended questions;
- Be aware of the situation of the client; if the client may be put in danger or at greater risk by conducting the interview, do not interview the alleged abuser/neglecter;
- Document any quotes verbatim and/or specific details from the alleged abuser/neglecter that support or refute any allegations of abuse;
- Use plain language;
- Question the alleged abuser/neglecter directly about the allegations of abuse and/or neglect and any information which may support those allegations;
- Inform the alleged abuser/neglecter of Adult Protection's role and primary responsibility to the Adult Protection client.

5.9.3 BACKGROUND: Examples of Leading and Non- Leading Questions[1]:

1. Non- leading questions do not contain an expected answer.	
Leading	**Non- Leading**
Did your daughter hurt you?	How did you get hurt?
Did it happen in the living room?	Where did it happen?
Was your daughter there?	Who was there?
Did your daughter tell you not to tell anyone?	What was said to you at the time?
2. Non- leading questions do not contain a choice of answers.	
Leading	**Non- Leading**
Was she wearing a sweater or blouse?	Tell me what she looked like.
Were you sitting up or laying down?	Where were you in the room?
Were you scared, angry or sad?	How did you feel?
3. Non- leading questions do not name the alleged abuser/neglecter before the adult has identified the person	
Leading	**Non-Leading**
Was it your daughter who hit you?	Who hit you?
Did your daughter tell you not to tell anyone?	Has anyone asked you to not talk about what happened to you?
We have been told that you have been having a problem with your daughter.	Do you know why I am here to speak to you?
4. Non- leading questions do not contain explicit details of an alleged offence.	
Leading	**Non- Leading**
Did your daughter grab your arms, hit you in the face and throw you on the floor?	What did she do next?
What did she yell at you?	Then what happened?
Which hand did she hit you in the face with?	What was it that hurt you?
5. Non- leading questions do not contain the Adult Protection worker's assumptions.	
Leading	**Non- Leading**
I am going to ask you some questions about what happened to you.	Do you know why I am here?
Did your daughter hit you because she wanted your money?	Do you know if there is a reason why you were hurt?
Where was your grandson standing?	Was there anyone else there when you were hurt?

[1] Adapted from *Standards of Social Work Practice*, Non-Leading Interview Techniques, Nancy Frederick, May 1992. As retrieved from http://naratraining.org/investigationcourse/investigation/ToolAttachmentG.pdf on November 17, 2009.

Policy: 5.10 Collecting and Preserving Evidence

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

5.10 PURPOSE

The collection and preservation of forensic evidence is crucial to an effective police investigation of a criminal offence. In Adult Protection investigations, there may be evidence that an Adult Protection worker discovers which may or may not be important forensic evidence.

It is important to note that Adult Protection workers are only investigating whether or not a client meets the criteria of being in need of protection; they are not investigating whether or not a crime has occurred; this is the responsibility of the police.

5.10.1 POLICY

Preserving Potential Forensic Evidence[1]

Adult Protection workers must take precautions to not disturb or destroy evidence which may be used in a police investigation.

If an Adult Protection worker suspects that a crime has occurred and he or she uncovers potential forensic evidence in the course of the investigation, he or she must:

- Contact the police as soon as possible to describe the visible evidence;
- Inform his or her supervisor;
- Not touch or move anything, unless it is absolutely necessary (to assist the Adult Protection client);
- Not clean or wash anything;
- Wear disposable gloves if he or she suspects that the Adult Protection client has been assaulted (in the event that he or she has to physically assist the Adult Protection client);
- Make sure the clothing of the Adult Protection client is not removed if the worker suspects that there is evidence present on the clothing;

[1] Adapted from "Adult Protection - A Multi-Agency Policy for the Protection of Vulnerable Adults from Abuse & Neglect in Cornwall: A Policy Manual", Cornwall, UK, 2007, pg. 124-125

- Discourage the Adult Protection client from cleaning his or her teeth, or eating or drinking anything if the worker suspects that the client was sexually assaulted orally as mouth swabs will have to be taken;
- Make sure (with police assistance) that no one enters the residence that could compromise the evidence;
- Make notes to advise the responding officer of anything that was moved or touched that may contain evidence;
- Not leave the Adult Protection client alone with the evidence in the event that the client unwittingly compromises the evidence.

Collecting Potential Forensic Evidence:

Under *no* conditions are Adult Protection workers to conduct physical examinations of the Adult Protection client. This includes manipulating the client's clothing to identify if there are visible injuries.

The Adult Protection worker may request that the client him or herself manipulate his or her clothing in order to show the worker visible injuries, if the client is willing to do so.

If the client is unwilling to show the Adult Protection worker his or her reported injuries, the Adult Protection worker must continue with the assessment. If at the end of the assessment, the worker concludes that in order to determine if the client is experiencing serious physical or psychological harm as a result of abuse or neglect, he or she must include physical evidence, he or she must consider whether or not a *Section 8* is warranted (see Policy 5.3). If a *Section 8* is warranted, the Adult Protection worker must inform legal counsel to include in the court application a request for a medical practitioner to accompany the worker in order to conduct a physical exam of the client.

If there is a nurse or ambulance attendant who are medically assessing the client at the same time that the Adult Protection worker is conducting his or her assessment of the client, the worker may request that the medical personnel report on any injuries that may have occurred from abuse and/or neglect of the client. The worker will record this information as evidence in the Adult Protection Risk and Capacity Assessment.

Adult Protection workers must record any openly visible injuries (such as bruises or lacerations) on the Adult Protection Risk and Capacity Assessment and report the injuries to the police and/or the health professional who conducts a physical exam.

Policy: 5.11 Taking Photos and Videos for Evidence

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

5.11 PURPOSE

Photos and videos may be helpful in some situations to demonstrate the state of the physical environment in which the Adult Protection client is living in, in order to supplement the assessment of the Adult Protection worker.

5.11.1 POLICY

Adult Protection workers *may* take photographs of the Adult Protection client's *physical* environment to demonstrate the state of his or her premises and indicators of risk; if the Adult Protection worker determines that this would be helpful to substantiate that the adult is in need of protection.

However, the following criteria must be met:

1. There must be reasonable and probable cause that the adult is in need of protection;
2. The Adult Protection worker must determine if the client is able to give informed consent for the worker to take photographs or videos of his or her physical environment, if he or she *is able* to give informed consent and refuses, the worker *must not* take any photos or videos; or
3. If the Adult Protection client has a substitute decision maker (if appropriate), the Adult Protection worker will ask for his or her consent to take photographs and/or videos, if the substitute decision maker does not give his or her consent, the worker *must not* take any photographs or video; or
4. If the Adult Protection client clearly does not have the mental capacity to give his or her consent for taking photographs or videos *and does not have a substitute decision maker,* the Adult Protection worker may take photos and/or videos of the client's physical environment only if he or she feels it is *necessary* to substantiate that the adult is in need of protection.

Adult Protection workers *must not* take photos or videos of an Adult Protection client's *person*. If there are physical indicators of abuse and/or neglect *and* there are reasonable and probable grounds that an adult is in need of protection, the police and/or a medical practitioner may take photographs in the course of their investigation and/or assessment.

If there has been an investigation by the police of the criminal abuse and/or neglect of a client and photographs have been taken of the client's person to substantiate the abuse or neglect; the Adult Protection worker may ask for copies of the photographs, if appropriate.

Photographs and/or videos must not be taken with Adult Protection workers' personal cameras. They must use equipment provided and authorized by the Department of Health and Wellness.

Adult Protection workers must send the photographs and/or videos to their computers as soon as possible and delete them from all external devices.

All photographs and videos must be placed in an envelope and attached to the client's hardcopy file. The worker must record the date when the photo/video was taken and who took the photo/video on the back of the photograph or on a label on the video.

If the Adult Protection client is able to provide consent or if he or she has a substitute decision maker who is able to provide consent for photographs or videos, the Adult Protection worker must have the appropriate person sign the consent form in Policy 5.15.10.

Policy: 5.12 Timeline for Completing the Assessment

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

5.12 PURPOSE

An Adult Protection assessment begins when the Adult Protection worker makes the first contact for the purposes of the assessment. In most cases, this would be a face-to-face visit with the client, however, in some circumstances; this may be contacting a collateral source if the client is unavailable.

An Adult Protection assessment is complete when the Adult Protection worker comes to a conclusion that the Adult Protection client *is or is not* in need of protection.

5.12.1 POLICY

An Adult Protection Assessment shall be completed within *7 working days* of the start date of the assessment process.

If the assigned Adult Protection worker is not able to complete the assessment within this timeframe, the Adult Protection worker shall advise the Adult Protection supervisor that the timeline will not be met and the rationale for being unable to meet the timeline.

Policy: 5.13 Role of the Medical Practitioner and Medical Observation Form

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

5.13 PURPOSE

An Adult Protection worker may need further information or evidence from a qualified medical practitioner in order to conclude if an adult meets the criteria of an adult in need of protection.

Section 6 of the *Adult Protection Act* authorizes Adult Protection to request a medical assessment:

Where the Minister receives a report that a person is an adult in need of protection, he shall
(a) make inquiries with respect to the matter; and
(b) if he finds there are reasonable and probable grounds to believe the adult is in need of protection, cause an assessment to be made,
and the Minister may, ***if he deems it advisable, request a qualified medical practitioner to assess the adult, the care and attention the adult is receiving and whether the adult has been abused.*** *R.S., c. 2, s. 6.*

5.13.1 POLICY

Adult Protection workers may contact medical practitioners at all of the stages of an Adult Protection intervention:

- At the Intake and Inquiry stage- a medical practitioner may be contacted as a collateral source as part of gathering evidence to support reasonable and probable grounds to move forward with an assessment;
- At the Assessment stage- a medical practitioner may be asked to fill out a Medical Observation Form (Policy 5.15.5) to assist the Adult Protection worker to substantiate that an adult meets the criteria of an adult in need of protection;
- At the Care Planning stage- a medical practitioner may be asked to assist the Adult Protection worker to develop or revise a care plan and to provide evidence for renewals and/or variations of court orders (Policy 5.15.7);
- At all stages- the medical practitioner may be asked to provide a second opinion of all of the above conditions.

At the Inquiry stage of intervention, Adult Protection workers must gather evidence from medical professionals as they would from other collateral sources (see Policy 4.1). They must clearly document the medical practitioner's observations in the client's case notes.

Adult Protection workers must request that a medical practitioner fill out the Medical Observation Form (refer to Policies 5.15.5- 5.15.8) if, in the course of the Assessment stage of intervention, they need assistance to:

- Determine if there are reasonable and probable grounds to believe an adult is in need of protection;
- Develop, review or revise a care plan for an adult in need of protection;
- Put forward a recommendation to the court as to whether an existing court order should be renewed, varied or terminated.

If requested and if the form is complete, the Adult Protection worker must send the Adult Protection Risk and Capacity Assessment form to the medical practitioner.

The Adult Protection Medical Observation Form cover letter must be completed and sent to the medical practitioner along with the Medical Observation Form.

If a Medical Observation Form is required for the review of a court order, it should be sent to the medical practitioner with enough advance notice so that it can be completed by the time the court documents need to be forwarded to legal counsel.

It is important to note that if an Adult Protection worker receives conflicting information in relation to whether or not a client meets the criteria of an adult in need of protection from a medical practitioner and other health professionals; the worker must refer the client for a second *independent* medical assessment for whatever part of the assessment is being contested. *Adult Protection workers must inform their supervisor if a client is being referred for a second assessment.*

5.13.2 PROCEDURES

The Adult Protection worker must indicate on the Medical Observation Form cover letter his or her specific observation/assessment request of the medical practitioner. The requests would be one of the following:

- If the client has indicators of physical, sexual and/or psychological abuse
- If the client has physical functioning impairments or cognitive deficits which would affect the client's ability to function in his/her current living situation
- If the client has medication management issues which could put the client in a situation of high or extremely high risk
- If the client has mental capacity issues in relation to his or her assessed risk(s)
- Any other risk factors which are considered to be of importance to the Adult Protection investigation.

In addition to the above information, the medical practitioner may be asked to provide information on the Medical Observation Form in the following situations:

- If the Adult Protection worker requires more information in order to formulate an appropriate care plan for the client;
- If a court order is being renewed or varied;
- If a second opinion of a client's mental and/or physical capacity to protect themselves from the assessed risks is needed.

Policy: 5.14 Risk and Capacity Assessment Form

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

5.14 PURPOSE

The Adult Protection Risk and Capacity Assessment guides the Adult Protection worker to identify if a client meets the criteria of an adult in need of government protection. This assessment is the cornerstone of any Adult Protection intervention.

Section 3 of the *Adult Protection Act* dictates the criteria of an adult in need of protection:

"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[1]

Therefore, the assessment documents evidence gathered to demonstrate that an adult meets the following criteria:

1. He or she is living at significant risk;
2. He or she is unable to protect him/herself from that risk due to a physical or mental incapacity to do so;
3. He or she has a permanent, irreversible condition that affects his or her capacity to protect him or herself from risk.

Sections 7, 9 and *10* of the *Adult Protection Act* speak to the anticipated outcome of the assessment; once a worker determines that an adult meets the above criteria. If an adult is in need of protection, the worker must consider the option to refer directly for services, apply for a court order for services for the client or to remove the client from his or her premises.

Therefore, the assessment acts as a guide for the Adult Protection worker to:

- Determine if an individual is living at a high or extremely high level of risk based on specific risk factors;

[1] *Section 3, Adult Protection Act*

- Gather specific information about areas of risk with which to determine the individual's capacity to *understand and appreciate* the nature and significance of specific risk factor(s), i.e. his or her 'mental capacity';
- Gather information about the adult's physical capacity to protect him/herself from the identified risks;
- Identify if an individual has a permanent, irreversible condition which affects his or her physical and/or mental capacity to protect him/herself;
- Collect vital information to provide to other service providers to appropriately mitigate the risk(s) to the individual;
- Identify when the Adult Protection worker needs more information about a specific risk factor from another health professional;
- Demonstrate that an Adult Protection worker has considered the individual's situation and made the appropriate referrals and/or closed the case according to a standardized approach;
- Recommend a care plan for the individual if they meet the criteria of an adult in need of the government's protection.

5.14.1 POLICY

Adult Protection workers must use the standardized Adult Protection Risk and Capacity Assessment (Policy 5.15.1 and 5.15.2) to capture the information gathered in all Adult Protection assessments.

The workers must forward the assessment to legal counsel and named persons (i.e. medical practitioner) as directed; if the assessment results in a *Section 9* or *10* application.

The Adult Protection worker who has the primary responsibility for the client's file is responsible for the assessment. If another worker is assisting the primary worker, he or she will fill out the appropriate areas of the assessment and inform the primary worker. The assessment form will be attached to the client's electronic and hard copy file.

It is important to note that throughout the assessment, if an Adult Protection worker feels that he or she needs additional information to demonstrate the significance of the risk to an individual or their potential incapacity to understand and appreciate the risk, they must refer the individual to other professionals to further assess the situation.

The assessment is organized from a priority perspective; in all of the stages of the assessment, the most *significant* risk factors are presented first. Adult Protection workers must conduct the Adult Protection Risk and Capacity Assessment in the following order:

- ***Section 8*** **Assessment-** the first part of the assessment is to note whether or not the client and/or the person who has care and control of the client has refused to consent for the assessment. If this is the case, see Policy 5.3.
- **Section 1: Risk Assessment:**
    a. **Risk Factors That Prompted an Immediate Response-** This first part of the assessment is to ensure that all urgent risk concerns are addressed immediately. If certain criteria are present in a risk assessment, it will be clear that immediate intervention is warranted because of the extremely high level of risk to the client.
    b. **Assessment of Risk to the Client Due to Alleged Abuse and/or Neglect-** This section of the assessment only appears on the form used for situations where abuse and/or neglect are alleged. It ensures that Adult Protection workers are considering various indicators of abuse and/or neglect: physical, historical, environmental and behavioral indicators demonstrated by the client and the alleged abuser/neglecter. This part of the assessment also indicates whether or not police are involved already or whether a referral is required. At the end of this part of the assessment, Adult Protection workers must summarize the assessment of risk to the client. This includes identifying if there are reasonable and probable grounds to substantiate that the client is experiencing serious physical and/or psychological harm as a result of abuse and/or neglect and the risk to the client of continued abuse and/or neglect.
    c. **Functional Risk Assessment-** This part of the assessment identifies the client's functional ability; including challenges with his or her cognition, continence, medication management and treatment and any physical and social environment risk factors. Adult Protection workers must summarize this part of the assessment by determining the level of risk in which a client is living. The workers use the Adult Protection Risk Continuum for this purpose.
- **Section 2: Mental Capacity Assessment-** The capacity assessment identifies whether or not a client is able to *understand and appreciate* his or her situation of significant risk. The Adult Protection workers analyze the client's responses to the questions in the assessment and make a determination of whether or not the client has the capacity to protect him/herself from the risk(s) identified in the risk assessment. The workers must identify if they need additional information from health professionals to assess whether or not the client has the mental capacity to protect themselves from the identified risks in the assessment. At the end of this part of the assessment, workers must conclude whether or not the client has the mental capacity to protect him or herself from the identified risks.
- **Section 3: Meeting the Criteria of an Adult in Need of Protection-** This part of the assessment documents evidence related to any medical conditions or diagnoses that may have a transitional or permanent effect on the mental and/or physical capacity of a client; such as specific medical diagnoses that affect the cognitive functioning of the client; the history of the client's personal and

household care patterns; and any substance abuse issues. This section also requires Adult Protection workers to summarize whether or not there are reasonable and probable grounds to substantiate that a client meets the criteria of an adult in need of protection.

- **Section 4: Care Planning Considerations-** This information is gathered for two reasons; to assist Adult Protection workers to develop an appropriate care plan and to ensure that relevant information is being gathered for service providers to whom the Adult Protection client will be referred.
- Of primary consideration are the client's previously and currently expressed wishes. This part of the assessment documents whether or not the client has a personal directive, or has previously expressed his or her wishes or expressed his or her wishes during the assessment. Adult Protection workers must identify if the service providers, and/or the Departments of Health and Community Services can accommodate the client's wishes.
- Adult Protection workers also collect information related to the client's current and past involvement with service providers and any behavioral considerations that service providers would benefit from knowing in order to accommodate the client's needs properly.
- **Section 5: Implementing the Care Plan-** At this stage of the assessment, Adult Protection workers document their recommendations for the assessed individual.
- This section is organized based on the principle of least intrusiveness; first Adult Protection workers must consider if the client is *willing and able to consent* to a referral for services or has an appropriate substitute decision-maker who is willing and able to consent. If this is the case, the client meets the criteria for a referral for services through *Section 7* of the *Adult Protection Act*[2].
- If the client is not eligible for a *Section 7*, then the workers consider court action through a *Section 9* if the client is living at a high level of risk but does not have to be removed immediately for his or her protection.
- If the client has to be removed because he or she is living at an extremely high level of risk that cannot be mitigated in the short-term, the workers must pursue a *Section 10* under the *Act*.
- A follow up plan must also be documented to articulate how Adult Protection workers plan to demonstrate that the Adult Protection client is being protected from the areas of assessed risk.

The 'check-box' format of the form is meant to provide Adult Protection workers with a quick reference guide for their assessments and to ensure that only information related to an individual's situation of *risk* is collected. However, the format of the risk

[2] As part of the *Section 7* process, the Adult Protection worker must identify if there is an appropriate family member who would be able to act as a substitute decision maker to consent for a referral to Continuing Care or the Department of Community Services. It is important to note that the ability of an Adult Protection client to consent for services is based on the concept of *informed consent.* This means that the Adult Protection worker must explain the service, (whether it is a community-based service or placement into a Continuing Care or Community Services facility), to the client and ask a series of questions to determine if the client is able to 1) understand the nature of the service and 2) appreciate how the service will impact their lives. Adult Protection clients may not have capacity to understand and appreciate the nature and significance of the risk that they are living in, but *may* be able to demonstrate capacity to consent to services.

assessment also reflects the importance of a narrative approach to assessment. Each area of the risk assessment has a space for 'additional information' where workers are encouraged to document any additional relevant information.

5.14.2 GUIDELINES

The Adult Protection worker may fill out the relevant parts of the Adult Protection Risk and Capacity Assessment during the assessment or after the assessment, depending on the preference of the Adult Protection worker and according to the time standards in Policy 7.4.

The professional judgment of the Adult Protection worker is *crucial* in assessing both the indicators and the significance of the risk facing individuals undergoing an Adult Protection assessment. The assessment is meant to assist Adult Protection workers to identify risk factors and organize the evidence gathered during the assessment process. The Adult Protection worker uses his or her professional judgment to determine the significance of the risk that an individual is living in; whether or not the individual is living at a low, moderate, high or extremely high level of risk.

The following are important considerations when conducting the Adult Protection Risk and Capacity Assessment[3]:

1. Capacity differs from global competency:

- *Global competency* is no longer the legal or ethical standard for adults in need of protection; the Adult Protection worker must establish if the client demonstrates *understanding and appreciation* of the specific risks that have been assessed in their environment;
- Individual decision making is a fundamental right in a democratic society; deeming a person incapable in any domain is not to be taken lightly;
- Clients must be first presumed to have capacity, as all individuals must under law, unless evidence is presented to the contrary.

2. The overall capacity assessment may contain supporting clinical evidence, but it is not solely a clinical assessment:

- The purpose of the assessment is to evaluate the client's perception of his/her circumstances of risk and his/her available choices and the consequences of making or not making a decision in regards to those choices; it is a *legal standard*;
- Cognitive deficiencies may inform the capacity assessment, however, the actual assessment of capacity is based on a series of specific questions and the client's responses to those questions;

[3] These considerations were informed by Bowman, Dr. Kerry, "*Interview Guide for Evaluation of Capacity for Admission to an Example Long Term Care Home",* 2008.

- Capacity is assessed *throughout* the Adult Protection Risk and Capacity assessment; as areas of risk are discovered, specific questions related to those risks are asked of the client in order to establish his or her ability to mentally protect him or herself from the risks in the environment;
- Adult Protection workers can evaluate capacity. However, in difficult and unclear situations; a capacity assessment should always be supported by a health professional.

3. There are temporary factors that will affect a determination of incapacity:

- A client who is depressed to the point where it affects his or her perception of the true nature of their circumstances may appear to be incapable to protect him/herself from assessed significant risk(s);
- Capacity can be highly transient, i.e., a person can be both capable and incapable on the same day; it may not be in the client's best interests to conduct the assessment in one sitting;
- A client may be incapable due to delirium. Delirious states may be easily rectifiable (i.e., dehydration) through medical intervention.

4. Factors that may influence the assessment:

- Clients have a right to make decisions that others may feel show poor judgment or eccentric behaviour; this does not mean they are incapable to make those decisions;
- Unidentified cultural differences may cause us to see a client as incapable in relation to specific risk-related decisions;
- The client's answers may be influenced if family members are present during the interview.

February 2011

Adult Protection Risk/Mental Capacity Assessment Form: ☐ Abuse ☐ Neglect

Client Information

Client:	**DOB:**	**HCN:**	**Marital status:**
Referral source:		**Relationship:**	
Date of referral:		**Date(s) of client visit(s):**	
Preferred language:		**Communication support needed:** ☐ Yes ☐ No (i.e. interpreter, family, language therapist)	
Previous AP involvement: ☐ No ☐ Yes (closed at Intake and Inquiry) ☐ Yes (closed at Assessment) ☐ Yes (*Section 7, 9 or 10*)			
Rationale (in short form) of how the evidence gathered at Intake and Inquiry met reasonable and probable grounds for assessment:			

Section 8 Assessment

Did the client comply with the assessment? ☐ Yes ☐ No	
Is an Order for Entry (*Section 8*) required? ☐ Yes ☐ No	
Has there been a supervisor consultation? ☐ Yes ☐ No	
Rationale:	
Has the Order for Entry been granted? ☐ Yes ☐ No	**Have the police been contacted?** ☐ Yes ☐ No
Provide pertinent details for each area checked:	

Section 1: Risk Assessment

A. Risk Factors that Prompted Immediate Response

☐ None	☐ Client unable to evacuate/seek assistance in an emergency
☐ Client caused fire	☐ Client had wandered
☐ Client was malnourished/dehydrated	☐ Client was not receiving life-sustaining medication/medical treatment
☐ Client was abandoned by caregiver(s)	☐ Client's caregiver(s) threatened to abandon client
☐ Client caused flood at their residence	☐ Client required immediate medical attention/medical assessment
☐ Client's caregiver was unable to protect client	☐ Other:

Provide pertinent details to support each section checked (eg. collateral sources, dates, direct quotes, whether evidence was directly observed or reported):

B. Assessment of Risk to the Client Due to Alleged Abuse/Neglect

I. Person Who is Alleged to be Neglecting/Abusing the Client

Name:	Relationship:

II. Identified (Reported or Directly Observed) Indicators of Abuse/Neglect

Physical Indicators of Abuse/Neglect

☐ No physical indicators of risk of abuse/neglect were directly observed or reported

Client had: ☐ Marks ☐ Bruises ☐ Lacerations ☐ Pressure marks ☐ Fracture(s) ☐ Burn(s) ☐ Bleeding

Client had: ☐ Broken teeth ☐ Welts ☐ Bite marks ☐ Bruising (breasts/genitals) ☐ Bleeding (vaginal/anal)

Client had: ☐ Contractures ☐ Untreated bed sores/ skin ulcers/ infections ☐ Was malnourished and/or dehydrated

Client had: ☐ Soiled clothing ☐ Inappropriate clothing for conditions ☐ Torn clothing ☐ Bloody clothing

Client appears: ☐ Ashamed ☐ Withdrawn ☐ To recoil ☐ Fearful/anxious ☐ Depressed/hopeless ☐ Tearful/agitated

☐ Other:

Historical and Environmental Indicators of Abuse/Neglect

☐ No historical and environmental indicators of risk of abuse/neglect were directly observed or reported

☐ Client had serious, untreated medical problems	☐ Client had been left alone (if supervision is required)
☐ History of delays for client receiving needed medical treatment	☐ Client had been over-medicated (for restraint purposes)
☐ Medication(s) were being withheld or not given properly to client	☐ Client had been physically restrained inappropriately
☐ Client living under unhealthy living conditions	☐ Other:

Alleged Abuser/Neglecter Indicators of Abuse/Neglect

☐ No indicators of risk of abuse/neglect of the alleged abuser/neglecter were directly observed or reported

☐ Has been found guilty of abuse or neglect of client previously	☐ Has been charged with abuse or neglect of client previously
☐ Has been accused of abuse or neglect of client previously	☐ Uncooperative with assessment
☐ Negative attitude about the client and/or the client's situation	☐ Extreme response(s) to client's behavior
☐ Inappropriate response(s) to client's behavior	☐ Has demonstrated behaviors consistent with substance abuse
☐ Has caused incidents, putting client at significant risk	☐ Has contributed to incidents, putting client at significant risk
☐ Has significant mental health concerns	☐ Has demonstrated a lack of adequate caregiving skills

☐ Other:

Provide pertinent details to support each section checked (eg. corroborative evidence, dates, direct quotes, whether evidence was directly observed or reported):

III. Additional Considerations

Alleged abuser/neglecter reaction to the assessment (i.e. recognizing the problem, accepting responsibility):

Client- alleged abuser/neglecter relationship(i.e. caring, interdependent, history of positive or negative interactions):

Factors that may have had an impact on the alleged abuser/neglecter (i.e. stress, social support, finances, care needs of client):
Alleged abuser/neglecter access: ☐ Unimpeded access - ☐ Fulltime ☐ Regular ☐ Intermittent ☐ Occasional ☐ Supervised access - ☐ Fulltime ☐ Regular ☐ Intermittent ☐ Occasional

IV. Police Involvement

☐ No referral required	☐ Client has been informed of the referral to the police
Open police investigation: ☐ Yes ☐ No ☐ Unknown	Police investigation completed: ☐ No ☐ Yes (note outcome below)
☐ Case has been referred to the police and there will be an investigation	
☐ Case has been referred to the police and there will *not* be an investigation	
Additional pertinent information:	

V. Assessment of Risk to the Client Due to Indicators of Abuse/Neglect

Degree of physical harm to client: ☐ Not applicable ☐ Extreme ☐ Serious ☐ Moderate ☐ Minor ☐ Unable to determine

Degree of psychological harm to client: ☐ Not applicable ☐ Extreme ☐ Serious ☐ Moderate ☐ Minor ☐ Unable to determine

Pattern of alleged abuse/neglect: ☐ Not applicable ☐ Chronic ☐ Frequent ☐ Occasional ☐ Isolated Incident ☐ Unknown

Based on an assessment of the above information there are reasonable and probable grounds to substantiate a:

☐ High degree of risk for *continued* abuse/neglect ☐ Moderate degree of risk for *continued* abuse/neglect

☐ Minimal degree of risk for *continued* abuse/neglect ☐ Unable to determine

Has a referral been made to a health professional for a further assessment in order to make a determination? ☐ Yes ☐ No

Type of assessment needed:

Contact information of health professional:

Date of referral:

Client is at significant risk of serious psychological and/or physical harm as a result of abuse/neglect: ☐ Yes ☐ No

Summarize pertinent information to support conclusion:

C. Functional Risk Assessment

I. Functional Ability Assessment - I = Independent P = Prompting S = Some Assistance A = Assistance D = Dependent UK- Unknown

Activities of Daily Living (ADL's)

Dressing:	Ambulation:	Feeding:	Grooming:	Toileting:	Bathing:

Instrumental Activities of Daily Living (IADL's)				
Meal prep. :	Shopping:	House cleaning:	Telephone:	Transportation:
Laundry:	Finances:	Appointments:	Medication management:	
Summarize the pertinent supporting information:				
Functional assessment based on: ☐ AP worker's observations ☐ Physiotherapy assessment ☐ OT assessment ☐ Physician assessment ☐ Physician consultation ☐ Family consultation ☐ Other:				
☐ Further functional assessment recommended: ☐ Occupational Therapy (OT) ☐ Physiotherapy				
Referred for:	Date referred:	Expected completion date:		
Additional pertinent information:				

II. Functional Risk Indicators

i. Identified Medication Management and Medical Treatment Risks	
☐ None	☐ Unknown at time of assessment
☐ Life sustaining medication is not being administered properly	☐ By client ☐ By caregiver (explain below)
☐ Life sustaining medical treatment is not being delivered properly	☐ By client ☐ By caregiver (explain below)
☐ Medication(s) (not life-sustaining) are not being administered properly ☐ By client ☐ By caregiver (explain below) (i.e. overuse, underuse, mismanagement, non-compliance, adverse reactions, toxicity, not taken on time, polypharmacy issues)	
Additional pertinent information:	

ii. Identified Cognitive Functioning Risks	
☐ None	☐ Confusion/disorientation
☐ Hallucinations	☐ Paranoia
☐ Delusions	☐ Impaired ability to plan and organize
☐ Poor concentration	☐ Fails to recognize or identify objects, people, sounds
☐ Unable to retain new information	☐ Other:
Summarize how the above areas checked are causing significant risk to the client:	

iii. Identified Physical Functioning Risks		
☐ None		
☐ Hearing:	☐ Visual:	
☐ Physical: ☐ No essential mobility aids ☐ Non-functioning or unsafe aids ☐ Unable to use aids appropriately		

☐ Recent fall resulting in physical injury (explain below): ☐ Required medical treatment ☐ Did not require medical treatment		
☐ Previous fall(s) resulting in physical injury (explain below): ☐ Required medical treatment ☐ Did not require medical treatment		
☐ Skin breakdown not managed	☐ Skin ulceration(s) not managed	☐ Necessary foot care not managed
☐ Unable to self-evacuate	☐ Swallowing difficulties	
☐ Other:		
Summarize how the above areas checked are causing significant risk to the client:		

iv. Identified Continence Risks							
☐ None	☐ Unknown	☐ Incontinent	Bowel:	Rarely	Occasionally	Frequently	☐ Frequency unknown
			Bladder:	Rarely	Occasionally	☐ Frequently	Frequency unknown
☐ Incontinence managed with assistance		☐ Incontinence not managed					
Additional pertinent information:							

D. Physical and Social Environment Risk Indicators

I. Physical Environment Risk Indicators		
☐ None observed	☐ None reported	☐ Unknown - client not assessed at home
☐ Exits blocked	☐ No heat or an unsafe heating system	☐ No water
☐ Non-functional plumbing	☐ No electricity	☐ Structural leaks
☐ Hazardous wiring	☐ Pest infestation	☐ Non-functioning or unsafe appliances
☐ Noxious odor or fumes	☐ Evidence of animal feces and/or urine	☐ Evidence of human feces and/or urine
☐ Mold	☐ Significant water damage	☐ No smoke alarms
☐ Significant uncleanliness	☐ Significant clutter	☐ Structural problems (specify below)
☐ No food or insufficient food	☐ Rotting food	☐ Burn marks (cigarette, pots, stove)
☐ Unsafe storage of chemicals	☐ Unable to safely use the heat system	☐ Unable to safely use electronic devices
☐ Other:		
Summarize how the above areas checked are causing significant risk to the client:		

II. Social Environment Risk Indicators	
☐ None	
☐ Lives alone	☐ Lives with (relationship to client):
Type of dwelling (apartment, seniors' housing, house):	
☐ Does not screen visitors	☐ Not registered with the Wandering Registry
☐ Not able to activate 911	☐ Does not have a Lifeline service

☐ No family/friends/support people in the area	☐ No support services in the client's area
☐ No mode of transportation	☐ No phone
☐ Other:	
Summarize how the above areas checked are causing significant risk to the client:	

E. Other Risk Considerations

☐ None	
☐ Essential home care services have been withdrawn	☐ Client has refused essential home care services
☐ Caregiver has refused essential home care services	☐ Client does not consistently co-operate with essential home care services
☐ Other:	
Summarize how the above areas checked are causing significant risk to the client:	

F. Risk Assessment Summary (Refer to the Adult Protection Risk Continuum Tool)

☐ Client not living at risk - *Proceed to Section 3(E)(ii)*
☐ Client assessed to be living at a l*ow* level of risk - *Proceed to Section 3(E)(ii)*
☐ Client assessed to be living at a *moderate* level of risk - *Proceed to Section 3(E)(ii)*
☐ Client assessed at a *high* level of risk – *Proceed to the Mental Capacity Assessment*
☐ Client is living at an *extremely high* level of risk - *Proceed to the Mental Capacity Assessment*
Summarize how the evidence gathered met reasonable and probable grounds for client living at extremely high or high level of risk:

Section 2: Mental Capacity Assessment

☐ Not Applicable- *Proceed to Section 3(E)(ii)*

Step 1: Assessing the Adult Protection Client's General Understanding of the Assessment

Was the client able to understand the purpose/reason for the assessment? ☐ Yes ☐ No

Explain:

If the client demonstrates understanding and appreciation of his/her situation of risk, do not continue with the Mental Capacity Assessment. *Proceed to Step 6 of the Risk and Capacity Assessment*.

Step 2: Cognitive Assessment

Observational tools used:

☐ MMSE	Score:	Recall:	Administered by:	Date:
☐ CAM (Confusion Assessment Method)		Score:	Administered by:	Date:
☐ MOCA	Score:	Recall:	Administered by:	Date:
☐ Clock Drawing		Result:	Administered by:	Date:
☐ FAB (Frontal Assessment Battery)		Result:	Administered by:	Date:
☐ Other:		Score:	Administered by:	Date:

Additional pertinent information:

Step 3: Assessing the Client's Mental Capacity Related to Overall Areas of Risk

Was the client able to demonstrate understanding/appreciation of the areas of risk? ☐ Yes ☐ No

Explain:

Was the client able to articulate how these areas of risk affect his/her life? ☐ Yes No

Explain:

Step 4: Assessing the Adult Protection Client's Mental Capacity Related to Specific Areas of Risk

Was the client able to *understand* the specific areas of identified risk? ☐ All ☐ None ☐ Some areas

Was the client able to *appreciate* the specific areas of identified risk? ☐ All ☐ None ☐ Some areas

Areas of risk the client was able to understand and appreciate:

Examples of questions asked to the client and his/her response(s):

Areas of risk the client was unable to understand and appreciate:

Examples of questions asked to the client and his/her responses:

Areas of risk the client was able to understand but not appreciate:

Examples of questions asked to the client and his/her response(s):
Implications of the client not understanding and/or appreciating these areas of risk:

Step 5: Determining Whether to Refer to Other Professionals for Additional Information/Assessments	
☐ **Not applicable**	
☐ **Client is *definitely not* capable of protecting him/herself from identified risks (no referral necessary)**	
☐ **Client is *probably not* able to protect him/herself from identified risks (referral necessary)**	
☐ **Client *may not be* able to protect him/herself from identified risks (referral necessary)**	
☐ **Client may be *able* to protect him/herself from identified risks (referral necessary)**	
☐ **Client is *definitely able* to protect him/herself from identified risks (no referral necessary)**	
☐ **Referral for an additional mental capacity assessment is needed**	
Rationale for referral:	
Referred to:	**Date referred:**
Follow up plan (if required):	
Is a second opinion needed? ☐ **Yes** ☐ **No**	
Rationale for second opinion:	
Referred to:	**Date referred:**

Step 6. Mental Capacity Assessment Conclusion and Recommendation
☐ **Not applicable**
☐ **Client is *not capable* of protecting him/herself from identified risks**
☐ **Client is most likely *not* able to protect him/herself from the identified risks**
☐ **Client *may or may not be* able to protect him/herself; the results are inconclusive**
☐ **Client is *definitely able* to protect him/herself from identified risks (close file)**
Additional pertinent information:

Section 3: Meeting the Criteria of the *Adult Protection Act*

A. Assessment of Medical Conditions Which May Have a Transitional Effect on Mental Capacity	
☐ **None identified**	
☐ **Recent infection(s) (UTI's, skin ulcers):**	☐ **Recent trauma, surgeries, injuries:**
☐ **Recent changes in medication:**	☐ **Recent diagnosis:**
☐ **Recent cessation of addictive substance(s):**	☐ **Heart conditions:**

☐ Diabetes	☐ Liver Disease
☐ Renal (Kidney Disease)	☐ Cancer (type):
☐ Dehydration	☐ Other:

Was the Confusion Assessment Method Instrument (CAM) administered? ☐ Yes ☐ No

Result:

Does the client have a condition which most likely is having a transitional effect on his/her mental capacity? ☐ Yes ☐ No

Explain:

B. Assessment of Personal and/or Household Care Patterns

☐ Not a concern

☐ Not attending to personal care: ☐ Consistent with History ☐ Some Change ☐ Gradual Decline ☐ Sudden Change ☐ Dramatic Change ☐ Unknown

☐ Not attending to household care: ☐ Consistent with History ☐ Some Change ☐ Gradual Decline ☐ Sudden Change ☐ Dramatic Change ☐ Unknown

Additional pertinent information:

C. Assessment of Medical Diagnosis Associated with Cognitive Functioning

☐ No relevant diagnosis at the time of assessment

☐ Dementia:

☐ Brain Injury:

☐ Congenital cognitive condition:

☐ Central nervous system (CNS) condition:

☐ Mental illness:

Is the condition stable with medication? ☐ Yes ☐ No

Was the client recently diagnosed (within the last year)? ☐ Yes ☐ No

Is there a medical professional currently involved? ☐ Yes ☐ No

Contact information:

☐ Other conditions related to cognitive functioning:

Was there a consultation concerning the medical diagnosis? ☐ Yes ☐ No

Physician: Physician's role:

Does the client's condition permanently and irreversibly affect his/her mental capacity? ☐ Yes ☐ No

Explain:

Medical Observation form completed: ☐ Yes ☐ No

Medical practitioner:

Additional pertinent information:

D. Assessment of Active Substance Abuse Concerns on Cognitive Functioning

☐ None identified	☐ Unknown at the time of the assessment		
☐ Active alcohol abuse:	☐ Acknowledges use	☐ Denies use	☐ History of alcohol abuse
☐ Active drug abuse: ☐ Prescriptions ☐ Illegal	☐ Acknowledges use	☐ Denies use	☐ History of drug abuse

Summarize pertinent information (i.e. type of alcohol/drug used, duration of substance abuse, severity of use, length of abstinence):

E. Conclusion

I. ☐ Client Meets the Criteria of the *Adult Protection Act* (Note: all 3 conditions must be met to meet criteria)

☐ Client is living at *significant r*isk (high or extremely high risk)

☐ Client is *unable* to protect him/herself: ☐ Due to a physical incapacity/disability ☐ Due to a mental incapacity/infirmity

☐ Client has a *permanent/irreversible* condition which affects his/her physical or mental incapacity

Additional pertinent information:

II. ☐ Client *Does Not* Meet the Criteria of the *Adult Protection Act*

☐ File closed - Client and/or substitute decision maker (SDM)(if appropriate) advised of outcome

Was the client and/or their or substitute decision maker (SDM) given information about relevant services? ☐ Yes ☐ No

Was the client referred for services? ☐ Yes ☐ No

Additional pertinent information (including which services were referred to if relevant):

Section 4: Care Planning Considerations

☐ Not applicable

A. Consideration of Client's Expressed Wishes for Care Planning

Has the client previously expressed wishes related to a situation that might involve Adult Protection? ☐ Yes ☐ No ☐ Unknown

Has the client previously expressed wishes related to home care, long-term care or residential services? ☐ Yes ☐ No ☐ Unknown

Does the client have documentation (a personal directive) to support the previously expressed wish? ☐ Yes ☐ No ☐ Unknown

Did the client express wishes during the assessment related to home care, LTC or residential services? ☐ Yes ☐ No

Are the DOHW, DCS and the service providers able to accommodate the client's wishes?

☐ Yes ☐ No

Additional pertinent information (including rationale for not accommodating wishes of the client if relevant):

B. Consideration of Existing Referrals and/or Assessments for Care Planning

Were there relevant assessment(s) completed with the client prior to this assessment? ☐ No ☐ Yes (if yes note type(s) below)

☐ Continuing Care (MDS-HC)	☐ Psychiatric	☐ Psychological	☐ Geriatric	☐ Physiotherapy	☐ OT

☐ Seniors' Mental Health	☐ Neurological	☐ Other:
Health professional who assessed the client:		Date of assessment:
Health professional who assessed the client:		Date of assessment:
Health professional who assessed the client:		Date of assessment:
Additional pertinent information (note if the assessment is on the paper file):		

C. Assessment of Behavioral Considerations for Client Care Planning

☐ None	
☐ Refuses assistance	☐ Resistant to assistance
☐ Has demonstrated physically aggressive behavior	☐ Has demonstrated verbally aggressive behavior
☐ Has demonstrated social disinhibited behavior	☐ Has demonstrated sexually disinhibited behavior
☐ Has demonstrated rummaging behavior	☐ Has demonstrated hoarding behavior
☐ Has eloped	☐ Other:
Additional pertinent information:	

D. Assessment of Current Care Service Considerations for Client Care Planning

☐ None				
☐ Veteran's Affairs Canada (VAC)	Counselor:	Phone #:		
☐ Private	Provider:	Phone #:		
☐ Adult Day Program	Provider:	Phone #:		
☐ Dept. of Community Services	Care Coordinator:	Phone #:		
☐ Cont. Care	☐ Receiving HCNS Services	☐ Assessed for HCNS Services	☐ HCNS Waitlist	☐ LTC Waitlist
Care Coordinator:		Phone #:		

Type of service(s): Personal Care Meal prep. Housecleaning ☐ Nursing Care ☐ Medication management
☐ Supervision Care Respite Meals on Wheels ☐ Other:

HCNS Services: ☐ Palliative Care ☐ Respite ☐ Home Oxygen ☐ Self-Managed Care ☐ Peritoneal Dialysis

Weekly schedule (note # of visits and hours):

☐ Referred for services	Type of service(s):	
Referral date:	Expected start date:	Contact person:
Additional pertinent information:		

Section 5: Implementing the Care Plan (Refer to the Adult Protection Care Planning Decision Tree)

A. Referral for Services (*Section 7*)

☐ Not applicable	☐ Adult Protection supervisor consulted

☐ Client who is physically incapacitated to protect him/herself from the assessed risk(s) has given i*nformed consent* for services

Substitute decision maker:

☐ None

☐ Guardian (must have copy of guardianship on paper file)

☐ Delegate (must have documentation of personal directive on paper file)

☐ Statutory decision maker (as determined by the hierarchy of the *Personal Directives Act*- document the process of choosing the SDM in the client's file)

Substitute decision maker is: ☐ *Willing* to act ☐ *Unwilling* to act ☐ Failing to act in the best interests of the client

Additional pertinent information:

Services referred to:

Follow up plan:

☐ Client and substitute decision maker (if appropriate) are informed of the status of the investigation and all referrals

☐ Client and substitute decision maker (if appropriate) are informed that the case will be closed	☐ Case is closed

B. Court Intervention

☐ *Section 10*: Immediate removal of the client	☐ *Section 9(3)(c):* Court application (for services, including placement)

☐ *Section 9(3)(d):* Protective intervention application

☐ Adult Protection supervisor consulted (mandatory)

Services required:

Follow up plan:

☐ Client is informed of the status of the investigation and all referrals

Section 6 - Summary Points/Additional Comments:

AP worker: *Person Authorized by the Minister of Health and Wellness Pursuant to Section 4 of the Adult Protection Act*	**Signature:**	**Date:**

February 2011

Adult Protection Risk/Mental Capacity Assessment Form for Self- Neglect

Client Information

Client:	**DOB:**	**HCN:**	**Marital status:**
Referral source:		**Relationship:**	
Date of referral:		**Date(s) of client visit(s):**	
Preferred language:		**Communication support needed:** ☐ Yes ☐ No (i.e. interpreter, family, language therapist)	

Previous AP involvement: ☐ No ☐ Yes (closed at Intake and Inquiry) ☐ Yes (closed at Assessment) ☐ Yes (*Section 7, 9 or 10*)

Rationale (in short form) of how the evidence gathered at Intake and Inquiry met reasonable and probable grounds for assessment:

Section 8 Assessment

Did the client comply with the assessment? ☐ Yes ☐ No

Is an Order for Entry (*Section 8*) required? ☐ Yes ☐ No

Has there been a supervisor consultation? ☐ Yes ☐ No

Rationale:

Has the Order for Entry been granted? ☐ Yes ☐ No	**Have the police been contacted?** ☐ Yes ☐ No

Provide pertinent details for each area checked:

Section 1: Risk Assessment

A. Risk Factors that Prompted Immediate Response

☐ None	☐ Client unable to evacuate/seek assistance in an emergency
☐ Client caused fire	☐ Client had wandered
☐ Client was malnourished/dehydrated	☐ Client was not receiving life-sustaining medication/medical treatment
☐ Client was abandoned by caregiver(s)	☐ Client's caregiver(s) threatened to abandon client
☐ Client caused flood at their residence	☐ Client required immediate medical attention/medical assessment
☐ Client's caregiver was unable to protect client	☐ Other:

Provide pertinent details to support each section checked (eg. collateral sources, dates, direct quotes, whether evidence was directly observed or reported):

B. Functional Risk Assessment

I. Functional Ability Assessment - I = Independent P = Prompting S = Some Assistance A = Assistance D = Dependent UK- Unknown

Activities of Daily Living (ADL's)

Dressing:	Ambulation:	Feeding:	Grooming:	Toileting:	Bathing:

Instrumental Activities of Daily Living (IADL's)

Meal prep. :	Shopping:	House cleaning:	Telephone:	Transportation:
Laundry:	Finances:	Appointments:	Medication management:	

Summarize the pertinent supporting information:

Functional assessment based on: ☐ AP worker's observations ☐ Physiotherapy assessment ☐ OT assessment ☐ Physician assessment ☐ Physician consultation ☐ Family consultation ☐ Other:

☐ Further functional assessment recommended: ☐ Occupational Therapy (OT) ☐ Physiotherapy

Referred for:	Date referred:	Expected completion date:

Additional pertinent information:

II. Functional Risk Indicators

i. Identified Medication Management and Medical Treatment Risks

☐ None ☐ Unknown at time of assessment

☐ Life sustaining medication is not being administered properly ☐ By client ☐ By caregiver (explain below)

☐ Life sustaining medical treatment is not being delivered properly ☐ By client ☐ By caregiver (explain below)

☐ Medication(s) (not life-sustaining) are not being administered properly ☐ By client ☐ By caregiver (explain below)
(i.e. overuse, underuse, mismanagement, non-compliance, adverse reactions, toxicity, not taken on time, polypharmacy issues)

Additional pertinent information:

ii. Identified Cognitive Functioning Risks

☐ None	☐ Confusion/disorientation
☐ Hallucinations	☐ Paranoia
☐ Delusions	☐ Impaired ability to plan and organize
☐ Poor concentration	☐ Fails to recognize or identify objects, people, sounds
☐ Unable to retain new information	☐ Other:

Summarize how the above areas checked are causing significant risk to the client:

iii. Identified Physical Functioning Risks		
☐ None		
☐ Hearing:	☐ Visual:	
☐ Physical: ☐ No essential mobility aids ☐ Non-functioning or unsafe aids ☐ Unable to use aids appropriately		
☐ Recent fall resulting in physical injury (explain below): ☐ Required medical treatment ☐ Did not require medical treatment		
☐ Previous fall(s) resulting in physical injury (explain below): ☐ Required medical treatment ☐ Did not require medical treatment		
☐ Skin breakdown not managed	☐ Skin ulceration(s) not managed	☐ Necessary foot care not managed
☐ Unable to self-evacuate	☐ Swallowing difficulties	
☐ Other:		
Summarize how the above areas checked are causing significant risk to the client:		

iv. Identified Continence Risks							
☐ None	☐ Unknown	☐ Incontinent	Bowel:	Rarely	Occasionally	Frequently	☐ Frequency unknown
			Bladder:	Rarely	Occasionally	☐ Frequently	Frequency unknown
☐ Incontinence managed with assistance		☐ Incontinence not managed					
Additional pertinent information:							

C. Physical and Social Environment Risk Indicators

I. Physical Environment Risk Indicators		
☐ None observed	☐ None reported	☐ Unknown - client not assessed at home
☐ Exits blocked	☐ No heat or an unsafe heating system	☐ No water
☐ Non-functional plumbing	☐ No electricity	☐ Structural leaks
☐ Hazardous wiring	☐ Pest infestation	☐ Non-functioning or unsafe appliances
☐ Noxious odor or fumes	☐ Evidence of animal feces and/or urine	☐ Evidence of human feces and/or urine
☐ Mold	☐ Significant water damage	☐ No smoke alarms
☐ Significant uncleanliness	☐ Significant clutter	☐ Structural problems (specify below)
☐ No food or insufficient food	☐ Rotting food	☐ Burn marks (cigarette, pots, stove)
☐ Unsafe storage of chemicals	☐ Unable to safely use the heat system	☐ Unable to safely use electronic devices
☐ Other:		
Summarize how the above areas checked are causing significant risk to the client:		

II. Social Environment Risk Indicators	
☐ None	
☐ Lives alone	☐ Lives with (relationship to client):
Type of dwelling (apartment, seniors' housing, house):	
☐ Does not screen visitors	☐ Not registered with the Wandering Registry
☐ Not able to activate 911	☐ Does not have a Lifeline service
☐ No family/friends/support people in the area	☐ No support services in the client's area
☐ No mode of transportation	☐ No phone
☐ Other:	
Summarize how the above areas checked are causing significant risk to the client:	

D. Other Risk Considerations	
☐ None	
☐ Essential home care services have been withdrawn	☐ Client has refused essential home care services
☐ Caregiver has refused essential home care services	☐ Client does not consistently co-operate with essential home care services
☐ Other:	
Summarize how the above areas checked are causing significant risk to the client:	

E. Risk Assessment Summary (Refer to the Adult Protection Risk Continuum Tool)
☐ Client not living at risk - *Proceed to Section 3(E)(ii)*
☐ Client assessed to be living at a l*ow* level of risk - *Proceed to Section 3(E)(ii)*
☐ Client assessed to be living at a *moderate* level of risk - *Proceed to Section 3(E)(ii)*
☐ Client assessed at a *high* level of risk – *Proceed to the Mental Capacity Assessment*
☐ Client is living at an *extremely high* level of risk - *Proceed to the Mental Capacity Assessment*
Summarize how the evidence gathered met reasonable and probable grounds for client living at extremely high or high level of risk:

Section 2: Mental Capacity Assessment
☐ Not Applicable- *Proceed to Section 3(E)(ii)*

Step 1: Assessing the Adult Protection Client's General Understanding of the Assessment

Was the client able to understand the purpose/reason for the assessment? ☐ **Yes** ☐ **No**

Explain:

If the client demonstrates understanding and appreciation of his/her situation of risk, do not continue with the Mental Capacity Assessment. ***Proceed to Step 6 of the Risk and Capacity Assessment*****.**

Step 2: Cognitive Assessment

Observational tools used:

☐ **MMSE**	**Score:**	**Recall:**	**Administered by:**	**Date:**
☐ **CAM (Confusion Assessment Method)**		**Score:**	**Administered by:**	**Date:**
☐ **MOCA**	**Score:**	**Recall:**	**Administered by:**	**Date:**
☐ **Clock Drawing**		**Result:**	**Administered by:**	**Date:**
☐ **FAB (Frontal Assessment Battery)**		**Result:**	**Administered by:**	**Date:**
☐ **Other:**		**Score:**	**Administered by:**	**Date:**

Additional pertinent information:

Step 3: Assessing the Client's Mental Capacity Related to Overall Areas of Risk

Was the client able to demonstrate understanding/appreciation of the areas of risk? ☐ **Yes** ☐ **No**

Explain:

Was the client able to articulate how these areas of risk affect his/her life? ☐ **Yes** **No**

Explain:

Step 4: Assessing the Adult Protection Client's Mental Capacity Related to Specific Areas of Risk

Was the client able to *understand* the specific areas of identified risk? ☐ **All** ☐ **None** ☐ **Some areas**

Was the client able to *appreciate* the specific areas of identified risk? ☐ **All** ☐ **None** ☐ **Some areas**

Areas of risk the client was able to understand and appreciate:

Examples of questions asked to the client and his/her response(s):

Areas of risk the client was unable to understand and appreciate:

Examples of questions asked to the client and his/her responses:
Areas of risk the client was able to understand but not appreciate:
Examples of questions asked to the client and his/her response(s):
Implications of the client not understanding and/or appreciating these areas of risk:

Step 5: Determining Whether to Refer to Other Professionals for Additional Information/Assessments	
☐ **Not applicable**	
☐ **Client is *definitely not* capable of protecting him/herself from identified risks (no referral necessary)**	
☐ **Client is *probably not* able to protect him/herself from identified risks (referral necessary)**	
☐ **Client *may not be* able to protect him/herself from identified risks (referral necessary)**	
☐ **Client *may be able* to protect him/herself from identified risks (referral necessary)**	
☐ **Client is *definitely able* to protect him/herself from identified risks (no referral necessary)**	
☐ **Referral for an additional mental capacity assessment is needed**	
Rationale for referral:	
Referred to:	**Date referred:**
Follow up plan (if required):	
Is a second opinion needed? ☐ **Yes** ☐ **No**	
Rationale for second opinion:	
Referred to:	**Date referred:**

Step 6. Mental Capacity Assessment Conclusion and Recommendation
☐ **Not applicable**
☐ **Client is *not capable* of protecting him/herself from identified risks**
☐ **Client is *probably not* able to protect him/herself from the identified risks**
☐ **Client *may or may not be* able to protect him/herself; the results are inconclusive**
☐ **Client is *definitely able* to protect him/herself from identified risks (close file)**
Additional pertinent information:

Section 3: Meeting the Criteria of the *Adult Protection Act*

A. Assessment of Medical Conditions Which May Have a Transitional Effect on Mental Capacity

☐ None identified	
☐ Recent infection(s) (UTI's, skin ulcers):	☐ Recent trauma, surgeries, injuries:
☐ Recent changes in medication:	☐ Recent diagnosis:
☐ Recent cessation of addictive substance(s):	☐ Heart conditions:
☐ Diabetes	☐ Liver Disease
☐ Renal (Kidney Disease)	☐ Cancer (type):
☐ Dehydration	☐ Other:
Was the Confusion Assessment Method Instrument (CAM) administered? ☐ Yes ☐ No	
Result:	
Does the client have a condition which most likely is having a transitional effect on his/her mental capacity? ☐ Yes ☐ No	
Explain:	

B. Assessment of Personal and/or Household Care Patterns

☐ Not a concern

☐ Not attending to personal care: ☐ Consistent with History ☐ Some Change ☐ Gradual Decline ☐ Sudden Change ☐ Dramatic Change ☐ Unknown

☐ Not attending to household care: ☐ Consistent with History ☐ Some Change ☐ Gradual Decline ☐ Sudden Change ☐ Dramatic Change ☐ Unknown

Additional pertinent information:

C. Assessment of Medical Diagnosis Associated with Cognitive Functioning

☐ No relevant diagnosis at the time of assessment

☐ Dementia:

☐ Brain Injury:

☐ Congenital cognitive condition:

☐ Central nervous system (CNS) condition:

☐ Mental illness:

Is the condition stable with medication? ☐ Yes ☐ No

Was the client recently diagnosed (within the last year)? ☐ Yes ☐ No

Is there a medical professional currently involved? ☐ Yes ☐ No

Contact information:

☐ Other conditions related to cognitive functioning:

Was there a consultation concerning the medical diagnosis? ☐ Yes ☐ No Physician: Physician's role:
Does the client's condition permanently and irreversibly affect his/her mental capacity? ☐ Yes ☐ No
Explain:
Medical Observation form completed: ☐ Yes ☐ No
Medical practitioner:
Additional pertinent information:

D. Assessment of Active Substance Abuse Concerns on Cognitive Functioning

☐ None identified	☐ Unknown at the time of the assessment		
☐ Active alcohol abuse:	☐ Acknowledges use	☐ Denies use	☐ History of alcohol abuse
☐ Active drug abuse: ☐ Prescriptions ☐ Illegal	☐ Acknowledges use	☐ Denies use	☐ History of drug abuse
Summarize pertinent information (i.e. type of alcohol/drug used, duration of substance abuse, severity of use, length of abstinence):			

E. Conclusion

I. ☐ Client Meets the Criteria of the *Adult Protection Act* (Note: all 3 conditions must be met to meet criteria)

☐ Client is living at *significant r*isk (high or extremely high risk)

☐ Client is *unable* to protect him/herself: ☐ Due to a physical incapacity/disability ☐ Due to a mental incapacity/infirmity

☐ Client has a *permanent/irreversible* condition which affects his/her physical or mental incapacity

Additional pertinent information:

II. ☐ Client *Does Not* Meet the Criteria of the *Adult Protection Act*

☐ File closed - Client and/or substitute decision maker (SDM)(if appropriate) advised of outcome

Was the client and/or their or substitute decision maker (SDM) given information about relevant services? ☐ Yes ☐ No

Was the client referred for services? ☐ Yes ☐ No

Additional pertinent information (including which services were referred to if relevant):

Section 4: Care Planning Considerations

☐ Not applicable

A. Consideration of Client's Expressed Wishes for Care Planning

Has the client previously expressed wishes related to a situation that might involve Adult Protection? ☐ Yes ☐ No ☐ Unknown

Has the client previously expressed wishes related to home care, long-term care or residential services? ☐ Yes ☐ No ☐ Unknown
Does the client have documentation (a personal directive) to support the previously expressed wish? ☐ Yes ☐ No ☐ Unknown
Did the client express wishes during the assessment related to home care, LTC or residential services? ☐ Yes ☐ No
Are the DOHW, DCS and the service providers able to accommodate the client's wishes? ☐ Yes ☐ No
Additional pertinent information (including rationale for not accommodating wishes of the client if relevant):

B. Consideration of Existing Referrals and/or Assessments for Care Planning

Were there relevant assessment(s) completed with the client prior to this assessment? ☐ No ☐ Yes (if yes note type(s) below)					
☐ Continuing Care (MDS-HC)	☐ Psychiatric	☐ Psychological	☐ Geriatric	☐ Physiotherapy	☐ OT
☐ Seniors' Mental Health	☐ Neurological	☐ Other:			
Health professional who assessed the client:					Date of assessment:
Health professional who assessed the client:					Date of assessment:
Health professional who assessed the client:					Date of assessment:
Additional pertinent information (note if the assessment is on the paper file):					

C. Assessment of Behavioral Considerations for Client Care Planning

☐ None	
☐ Refuses assistance	☐ Resistant to assistance
☐ Has demonstrated physically aggressive behavior	☐ Has demonstrated verbally aggressive behavior
☐ Has demonstrated social disinhibited behavior	☐ Has demonstrated sexually disinhibited behavior
☐ Has demonstrated rummaging behavior	☐ Has demonstrated hoarding behavior
☐ Has eloped	☐ Other:
Additional pertinent information:	

D. Assessment of Current Care Service Considerations for Client Care Planning

☐ None				
☐ Veteran's Affairs Canada (VAC)	Counselor:		Phone #:	
☐ Private	Provider:		Phone #:	
☐ Adult Day Program	Provider:		Phone #:	
☐ Dept. of Community Services	Care Coordinator:		Phone #:	
☐ Cont. Care	☐ Receiving HCNS Services	☐ Assessed for HCNS Services	☐ HCNS Waitlist	☐ LTC Waitlist
Care Coordinator:		Phone #:		
Type of service(s): ☐ Personal Care ☐ Meal prep. ☐ Housecleaning ☐ Nursing Care ☐ Medication management ☐ Supervision Care ☐ Respite ☐ Meals on Wheels ☐ Other:				

HCNS Services: ☐ Palliative Care ☐ Respite ☐ Home Oxygen ☐ Self-Managed Care ☐ Peritoneal Dialysis		
Weekly schedule (note # of visits and hours):		
☐ Referred for services	Type of service(s):	
Referral date:	Expected start date:	Contact person:
Additional pertinent information:		

Section 5: Implementing the Care Plan (Refer to the Adult Protection Care Planning Decision Tree)

A. Referral for Services (*Section 7*)

☐ Not applicable	☐ Adult Protection supervisor consulted
☐ Client who is physically incapacitated to protect him/herself from the assessed risk(s) has given i*nformed consent* for services	
Substitute decision maker: ☐ None ☐ Guardian (must have copy of guardianship on paper file) ☐ Delegate (must have documentation of personal directive on paper file) ☐ Statutory decision maker (as determined by the hierarchy of the *Personal Directives Act*- document the process of choosing the SDM in the client's file)	
Substitute decision maker is: ☐ *Willing* to act ☐ *Unwilling* to act ☐ Failing to act in the best interests of the client	
Additional pertinent information:	
Services referred to:	
Follow up plan:	
☐ Client and substitute decision maker (if appropriate) are informed of the status of the investigation and all referrals	
☐ Client and substitute decision maker (if appropriate) are informed that the case will be closed	☐ Case is closed

B. Court Intervention

☐ *Section 10*: Immediate removal of the client	☐ *Section 9(3)(c):* Court application (for services, including placement)
☐ *Section 9(3)(d):* Protective intervention application	
☐ Adult Protection supervisor consulted (mandatory)	
Services required:	
Follow up plan:	
☐ Client is informed of the status of the investigation and all referrals	

Section 6 - Summary Points/Additional Comments:		
AP worker: *Person Authorized by the Minister of Health and Wellness Pursuant to Section 4 of the Adult Protection Act*	**Signature:**	**Date:**

February 2011

Adult Protection Risk and Capacity Assessment Form Guidelines

General Guidelines

Assessing an Adult Protection Client:

- Where possible, assess clients in the environment in which they are living in order to get an accurate assessment of their physical environment risks and their functional ability in their living environment.
- It is important to speak to clients directly in order to get first hand knowledge of their situation and to assess their understanding and appreciation of the risk(s) that they are living in.
- All conclusions and recommendations from the assessment must be reported and explored with the client (to the extent that the client is able to do so) and his/her substitute decision maker (if appropriate). This information must be relayed in a manner which would be easily understood by the client and the substitute decision maker and therefore, you must take into account any educational, cultural and language challenges.
- If you are unable to get sufficient information for the assessment to establish whether or not a client meets the criteria of an adult in need of protection; collateral contacts are to be contacted in order to complete the assessment.
- The risks assessed only pertain to the actual risks that are evident or are reported to Adult Protection at the time of the assessment.

While Conducting the Adult Protection Assessment be Cognizant:

- Of getting a comprehensive sense of clients' social history. A comprehensive social history will show any recent changes in behavior which may be crucial to your investigation and assessment. This will also give you a good idea of any family or caregiver issues that may be relevant to your investigation.
- That a person's rights and autonomy are considered to be of primary importance.
- For anyone who you investigate or assess, you must *presume* that they have the mental capacity to protect him/herself, until there is evidence presented to the contrary.
- **If you suspect that the client requires immediate medical attention contact 911.**
- *Indicators* of risk must be present in order to justify an Adult Protection intervention. Adult Protection does not have the authority to intervene for risk that *may* occur to a client.
- Any illness or injury can be accompanied by shock. It is a circulation problem where the body does not get enough blood. Indicators of Progressive Shock (Potential Delirium) include: a change in level of consciousness, skin is cold and clammy, thirst, confusion, fear, restlessness, anxiety, shallow irregular breathing, blue tinged lips, tongue or fingernails. **Contact 911 immediately for emergency medical assistance whenever the indicators of shock are present.**
- If you have a 'red flag' come up at any time during the assessment; elements of capacity should be explored with the client. The questions listed in the 'capacity assessment guidelines' are

meant to be asked at any time during the assessment and may be repeated many times during the course of an assessment.

- When assessing a client's mental or physical capacity, you are looking at his or her *ability to protect him/herself from risk*. In order to determine if a client is able to mentally able to protect him/herself from the assessed risk(s); you must determine if the client can *understand and appreciate* the situation of risk in which he/she is currently living. (Does he/she show *judgment and insight* into his/her situation?)
- Capacity assessments relate to a person's ability to make specific decisions at the time the capacity assessments are conducted.
- People have different values concerning risk; people living in Canada have the right to live with risk, *if* they have the *ability* to protect themselves from that risk. When determining if a client has mental capacity to protect him/herself from risk, an important question to explore is how the client has lived his or her life previous to the circumstances which prompted the assessment. Therefore, a person's personality traits, such as 'eccentricity', do not have any bearing on the determination of capacity.

General Guidelines for Assessing Situations of Abuse/Neglect:

- Abuse or neglect by a person with care or control over adults who are unable to physically or mentally protect themselves is considered an **'urgent'** risk factor.
- Evidence of serious physical or psychological harm caused by physical, psychological and/or sexual abuse of a vulnerable adult is considered to meet the threshold for a high or extremely high level of risk. The determination of 'serious harm' is a matter of professional judgment and must be based on the individual's unique circumstances. It is important to note that this is essentially an ethical determination; which is why it is crucial if you have any questions or challenges with making or not making a determination of serious harm, you must consult your supervisor.
- Police must be contacted if it is believed an offence has occurred *to an adult who cannot protect him/herself due to diminished physical and/or mental capacity* that would fall under the *Criminal Code of Canada* (this would include physical, sexual abuse, confinement, assault and financial abuse).
- In cases of verbal abuse or emotional abuse, evidence to support reasonable and probable grounds of serious psychological harm would have to be established.
- **Call 911 if you believe that police assistance is required to protect the adult or yourself as an Adult Protection worker.**

Recording Information for the Assessment:

- Identify all sources of information. Some of the behaviors or risk factors noted may not have been observed by you; if you have not observed these directly, note this clearly on the assessment form in the 'pertinent details' areas provided.
- All 'pertinent details' and 'summary' sections are to be filled out with the following (if relevant):
    - All necessary details to support the rationale for any information noted in that particular section (including categories that have been 'checked')
    - When the risk factors occurred

- The number of times a risk factor occurred
- Where risk factors occurred
- If there was anyone present when risk factors occurred, or if any other persons or service providers were involved.

- Keep a record of dates and times of visits, conversations with clients and collateral sources in the running notes.

Adult Protection Risk/Mental Capacity Assessment Form for Abuse/Caregiver Neglect

- For the Adult Protection Risk/Mental Capacity Assessment Form for Abuse/Neglect, check the appropriate box to indicate whether the situation concerns abuse or neglect.

Client/Intake Information Section

- Note the referral source
- Note the date that ***you received*** the referral
- Note date(s) of visit(s) to the client
- Identify the client's preferred language and access interpretive services if needed
- Identify if there has been previous Adult Protection involvement with the client. Provide the date(s) and pertinent information below in the 'rationale' space.
- Provide a short notation of the pertinent details of the referral information.

***Section 8* Assessment**

- In order to assess for a Section 8, you must introduce yourself as an Adult Protection worker and explain to the client why you are there to interview him or her. This would include telling him or her that your role is to assess the risks that the client is living in and whether or not the client can protect him or herself from those risks.
- Explain the assessment in a way that the adult is most likely to understand; keep in mind education levels and possible communication challenges such as a hearing deficit.
- Explain, (if relevant), to the adult's substitute decision maker or family member the assessment process.
- Ensure that the assessment *does not proceed* if the adult expresses refusal to be assessed. If this occurs; you must explain that you *may* have to proceed to court to seek an order to assess the client and explain the process to the client in plain language, so that he/she can understand. Refer to policies 8.4.6 and 5.3.
- Identify on the assessment form whether the client agreed to the Adult Protection assessment.
- After going through the process outlined in the process map, is a *Section 8* still required? Have you consulted with your supervisor? Has a *Section 8* been granted by the court? Did you need to

contact the police? Check all relevant sections on the assessment form. Document the rationale for proceeding or not proceeding with a *Section 8* application in the 'pertinent details' section.

Section 1: Risk Assessment

A. Risk Factors that Prompted an Immediate Adult Protection Assessment

- The risk factors listed in this section of the assessment would prompt an immediate response from Adult Protection and would require a protective plan be put into place to ensure the safety of the client if the risks were substantiated during the assessment.
- If there were no risk factors that prompted an immediate response check the box labeled 'none'.
- If there were urgent risk factors identified that prompted an immediate assessment check the corresponding section(s).
- 'Other' risk factors that prompted an immediate response might include unique situations that were considered emergencies, such as a natural disaster, for example.
- Ensure pertinent details are identified to support each section checked in the corresponding section (i.e. collateral sources, dates, direct quotes, whether evidence was directly observed or reported).

B. Assessment of Risk to the Client due to Alleged Abuse/Neglect

Note - Section B is found only in the Abuse/Neglect Risk/Mental Capacity Assessment Form

I. Person Who is Alleged to be Neglecting/Abusing the Client

- Identify the person who is alleged to be abusing/neglecting the client and his/her relationship to the client.

II. Identified (Reported or Directly Observed) Indicators of Abuse/Neglect

- **Indicators of Abuse and/or Neglect -** A sign, symptom, or index of abuse or neglect[1]. For the purposes of Adult Protection, this means direct, visual evidence that substantiates that abuse and/or neglect is most likely happening to the Adult Protection client. Evidence can be physical and/or behavioral in nature. See the definitions for Physical and Psychological Harm in the Adult Protection Summary of Terms for specific indicators of abuse and/or neglect. You may observe this evidence first hand or may receive reports of indicators from referral and/or collateral sources.
- Identify if there were any indicators of abuse/neglect evident from the assessment. Under *no* conditions are Adult Protection workers to conduct physical examinations of the Adult Protection client. This includes manipulating the client's clothing to identify if there are visible injuries.
- Check the appropriate sections where there has been information learned or there is evidence to support there are indicators of abuse/neglect.
- If there are any indicators or evidence of other types of abuse/neglect identify in the 'pertinent

[1] Retrieved from http://www.merriam-webster.com/dictionary/indicate, June 23, 2009.

details' section (i.e. financial abuse).

- **Note: If any sections are checked to identify that indicators of abuse or caregiver neglect are present, it is mandatory to fill out the 'Pertinent Details to Support Each Area Checked' section.**
- Provide pertinent details to support each section checked in the corresponding section (i.e. corroborative evidence, dates, direct quotes, whether evidence was directly observed or reported)
- **Assessing and Recording Indicators of Abuse/Neglect:**
    - Indicators of abuse and/or neglect may be present in the client's clothing and living conditions; if relevant, document these observations in the 'pertinent details' section
    - **You *do not* have the authority to conduct physical examinations; your observations must be from clearly visible injuries**
    - Record any visible signs of bruises, marks, lacerations, burns etc.
    - Record inappropriate use of medications, untreated medical conditions or the use of inappropriate physical restraints
    - Document all pertinent information collected and observed.

III. Additional Considerations

- **Record the following in the indicated sections:**
    - The alleged abuser/neglecter's reaction to the assessment (i.e. recognizing the problem, accepting responsibility)
    - The relationship of the client to the alleged abuser/neglecter (i.e. caring, interdependent, history of positive or negative interactions)
    - Any additional factors that may have had an impact on the alleged abuser/neglecter's actions (i.e. stress, social support, finances, care needs of client)
    - The type of access (unimpeded, supervised, full-time, intermittent) the alleged abuser/neglecter has to the client.

IV. Police Involvement

- Note if a police referral is not required.
- Indicate if the client has been informed of the referral to the police. **Note: *if* you refer the case to the police, it is mandatory that you inform the client; regardless of his/her mental capacity.**
- Indicate the following in relation to a police investigation. Provide all details in the 'pertinent details' section below:
    - Is there an open police investigation?
    - Has the investigation been completed? (Note the outcome in the 'pertinent details' section.)
- Note if the case has been referred to the police and if the police *will* be investigating; or if the

police were contacted and the police *will not* be investigating.

- Note any additional pertinent information in the corresponding section (i.e. status of investigation, reasons why police will not be investigating, etc.).

V. Assessment of Risk to the Client Due to Indicators of Abuse/Neglect

- This section summarizes your observations for the above sections. It is important to note the threshold for an Adult Protection intervention for a client who is experiencing abuse and/or neglect is that he/she is at risk of ***serious*** *physical and/or psychological harm*. (See Adult Protection Summary of Terms for definitions.)
- It is important to note that at any time if you determine that there is a level of extreme harm that may come to the client as a result of abuse and/or neglect; ***you must act immediately and inform the police if you believe the abuse/neglect constitutes a criminal offence under the Criminal Code of Canada.***
- If there are indicators of abuse/neglect
  - Assess the degree of physical harm that the client is experiencing
  - Assess the degree of psychological harm that the client is experiencing
  - Document the pattern of abuse/neglect.
- Assess and document whether there are *reasonable and probable grounds* to believe the level of harm to the client due to abuse and/or neglect will continue.
- If you are unable to make a determination, check the corresponding box and check whether a referral was made to a health professional for a further assessment to make a determination. Note the type of assessment needed and the contact information for the health professional conducting the assessment. Identify the date the referral was made for the assessment.
- After receiving the results of the additional assessment from a health professional; indicate whether there are *reasonable and probable grounds* that the client is at significant risk of serious psychological and/or physical harm as a result of abuse/neglect.
- Summarize any pertinent information to support the conclusion in the corresponding section.

C. Functional Risk Assessment

I. Functional Ability Assessment

- It is important to understand a client's independent functional abilities in order to establish the level of risk to the client in his/her physical environment and to recommend an appropriate care plan if an Adult Protection intervention is needed.
- The Functional Ability Assessment involves assessing a client's Activities of Daily Living (ADL's), which are primary activities crucial to independent living and a client's Instrumental Activities of Daily Living (IADL's), which are secondary activities to independent living. This section has been adapted from the Lawton Brody Daily Living Scale.
- A client's functional ability is assessed using the following scale:

- **I** = Independent,
- **P** = Prompting,
- **S** = Some assistance,
- **A** = Assistance,
- **D** = Dependent
- **UK** = Unknown

- Provide additional details in relation to the above scale in the 'additional pertinent information' section.
- The functional assessment could also include additional cognitive tests (which may be administered by an Occupational Therapist (OT) or another health professional like a geriatric psychiatrist, etc.) to support the evidence gathered by you. If you need more clarity in order to form a recommendation related to any of the functional areas, you should make a referral for further functional assessments.
- Note if the functional ability assessment was based on your observations, an OT or physician assessment, etc.)
- If a further functional ability assessment is needed check off the appropriate section for an OT, physiotherapy or physician assessment.
- If a referral was made for an additional functional assessment, note the date of the referral and the expected completion date.
- Note any additional pertinent information in the appropriate section.

Activities of Daily Living (ADL's) Assessment

- Activities vital to daily living are:
  - Dressing
  - Ambulation
  - Feeding
  - Grooming
  - Toileting
  - Bathing

The following descriptions will illustrate the differences between these levels of functioning related to dressing. (Dressing means more than just putting your clothes on. It means selecting clothes that are suitable, figuring out how to put them on and getting them on.):

- **Dressing Independently**: The client can go to the closet, choose his or her own clothes appropriately and get dressed by him/herself.
- **Dressing with Prompting:** After the client is told it is time to get dressed, he or she can go to the closet, select appropriate clothes and then get dressed. Without prompting, the client would not get dressed all day.

- **Dressing with Some Assistance**: After the client is told it is time to get dressed, he or she can go the closet but will need some assistance to pick the appropriate clothing and minimal assistance getting the clothing on.
- **Dressing with Assistance**. The client needs prompting and assistance to choose clothing, and help in deciding what to wear. He/she may be able to put his/her clothes on the top but not the bottom and often require assistance tying their shoes.
- **Dressing Dependently.** The client needs another person to dress him/her.

Instrumental Activities of Daily Living (IADL's) Assessment

- Secondary Level Activities needed for daily living are:
  - Meal preparation
  - Shopping
  - House cleaning
  - Driving
  - Cooking
  - Telephone
  - Laundry
  - Transportation
  - Managing finances
  - Appointments
  - Medication management **(Note: this may be considered vital to daily living depending on the medical condition)**
- Fill out the IADL assessment based on the above functional assessment scale.

II. Functional Risk Indicators

i. Identified Medication Management and Medical Treatment Risks

- If there *are no* medication management or medical treatment risks check 'none'.
- If it is *not known* at the time of the assessment if there are medication management or medical treatment risks check 'unknown at time of assessment'.
- If there *are* medication management or medical treatment risks, check the appropriate sections:
  - Life sustaining medications are the medications that cause an immediate effect if not taken. They include drugs such as insulin, heart medication and blood pressure medication
  - Life sustaining medical treatments are required to sustain the life of a client, for example, dialysis, chemotherapy, surgery)
- If there are concerns about (non-life-sustaining) medications *not being administered properly*, check the appropriate section. Indicate if this mismanagement is at the hands of another person or

the client him/herself. Mismanagement of medications could be in the form of overuse, under-use, non-compliance, meds not being taken on time, concerns about polypharmacy, (current prescriptions from a number of different pharmacies). Evidence of mismanagement may be seen in medication errors, toxicity and adverse reactions for example.

- Proper medication administration is the right drug, to the right person, in the right amount, at the right time, and the right route, (as in by mouth, by injection or by IV). Check the date on medication prescriptions to see if they are recent or expired.
- **Note: If there are concerns about medication management or medical treatment it is *mandatory* to fill out the 'additional pertinent information' section.**

ii. Identified Cognitive Functioning Risks

- If there are no identified (by someone else or through your observations) cognitive risks present for the client check the 'none' section.
- If there *are* any cognitive risks present, check the appropriate section(s); and
- Summarize how each section checked is causing significant risk to the client in the appropriate section.

iii. Identified Physical Functioning Risks

- If there are no known physical functioning risks check 'none'.
- If there are any physical functioning risks check the appropriate section(s); and
- Summarize how each section checked is causing significant risk to the client in the appropriate section.

iv. Identified Continence Risks

- Observe for signs of incontinence and the frequency of the incontinence (if this can be determined). Signs may include a strong odour of urine or feces permeating the carpets or chairs, or the client may have clothing that is soiled with urine or feces. Caregivers and/or family may also be able to provide information concerning toileting.
- If there are not any signs or concerns with continence check the 'none' section.
- If there are concerns about incontinence note the frequency (if this can be determined), and indicate whether the incontinence is managed or not managed.
- If there are incontinence concerns, provide the pertinent details in the 'additional pertinent information' section.

D. Physical and Social Environment Risk Indicators

I. Physical Environment Risk Indicators

- If no physical environment risk indicators were observed, check the 'none observed' section.
- If, due to exceptional circumstances, (such as the client has been referred from the hospital), the client was not visited at their home for the assessment, check the 'unknown- client not assessed at home' section.
- If you directly observed or the physical environment risk(s) were reported to you, check the appropriate section(s). Indicate in the 'summarize how the areas checked' section if you directly observed the risk indicators or if they were reported to you.
- Summarize how each section checked is causing significant risk to the client in the appropriate section.

II. Social Environment Risk Indicators

- If there are no social environment risk indicators, check the 'none' section.
- Identify the client's living situation; if the client lives alone, or who the client lives with and the client's relationship to this person(s); the type of dwelling (i.e. apartment, senior's housing, house).
- If there are any other risks related to the client's living situation, check off the appropriate sections (i.e. does not screen visitors, not able to activate 911, does not have a personal alert system, not registered with wandering society).
- Summarize how each section checked is causing significant risk to the client in the corresponding section.

E. Other Risk Considerations

- If there *are no* known additional risk considerations, (such as home care services being withdrawn or lack of client or caregiver cooperation), check the 'none' section.
- If there *are* additional risk considerations identified, check the appropriate section(s).
- Summarize how each section checked is causing significant risk to the client in the corresponding section.

F. Risk Assessment Summary (Refer to the *Adult Protection Risk Continuum*)

- You must use your professional judgement to complete the Risk Assessment Summary. All of the evidence gathered throughout the risk assessment up to this point is to be considered to formulate a conclusion of whether or not the client meets the standard of reasonable and probable grounds of living at a high or extremely high level of risk (according to the Risk Continuum).

- **Refer to the Adult Protection Risk Continuum (Policy 8.2) to determine risk level.**
- **<u>Decision Point: Mandatory</u>**

  You must complete this section and choose one of the following five options:

  1. Client assessed to *not* be living at risk
  2. Client assessed to be living at a low level of risk (not considered a *significant* level of risk and therefore would not require an Adult Protection intervention)
  3. Client assessed to be living at a moderate level of risk (not considered a *significant* level of risk and therefore would not require an Adult Protection intervention)
  4. Client assessed to be living at a ***high*** level of risk (considered to be a significant level of risk and therefore justifies an Adult Protection intervention *if* client meets other criteria)
  5. Client assessed to be living at an ***extremely high*** level of risk (considered to be a significant level of risk and therefore justifies an Adult Protection intervention *if* client meets other criteria)
- Summarize how the evidence gathered met *reasonable and probable grounds* for the client living at an ***extremely high or high level of risk*** in the corresponding section.

Section 2: Mental Capacity Assessment

- A mental capacity assessment is ***only to be completed*** if a client is assessed to be living at an ***extremely high or high level of risk***.
- If a mental capacity assessment is not needed, check 'not applicable'.

General Guidelines

1. Capacity differs from Global Competency

- *Global competency* is no longer the legal or ethical standard for adults in need of protection; you must establish if the adult demonstrates *understanding and appreciation* of the specific risks that have been assessed.
- Individual decision making is a fundamental right in a democratic society; deeming a person incapable in any domain is not to be taken lightly.
- Clients must be first presumed to be capable at the time of the assessment.

2. The Components of the Capacity Assessment

- The purpose of this assessment is to evaluate the adult's perception (understanding and appreciation or judgment and insight) of his/her circumstances of risk and his/her available choices; it is not a *clinical* assessment of his/her cognition; it is a legal standard.
- Cognitive deficiencies may *inform* the capacity assessment; however, the actual assessment of capacity is based on a series of specific questions and the adult's responses to those questions. It is important to note that a person's capacity is not based solely on a diagnosis; for example, someone with moderate dementia may still have capacity in relation to the specific risks identified in the assessment.
- Capacity must be assessed *after* the initial risk assessment; you need to establish that the client is living at a high or an extremely high level of risk *before* conducting the capacity assessment. To establish capacity or incapacity, you must ask specific questions related to the client's understanding and appreciation of the assessed risks that the adult is living in, in order to establish his/her ability to mentally protect themselves from those risks.
- You can evaluate capacity in most situations. However, if, *after* your initial capacity assessment, you do not have enough to substantiate that a client reasonably and probably has (or does not have) capacity; you must seek specific clinical evidence from a health professional relating to the areas of the capacity assessment of which you are unsure. In order to do this, you must be able to relay the areas of risk facing the client and where you are unsure if the client can or cannot mentally protect him or herself from those risks to the health professional. The information received from the health professional is meant to *clarify* whether or not the client has capacity.

3. There are temporary factors that will affect a determination of capacity or incapacity

- A client who is depressed to the point where it affects his or her perception of the true nature of their circumstances may appear to be incapable to protect him/herself from assessed significant risk(s). **If you suspect that a client may be clinically depressed; you must make arrangements for the adult to go to the hospital for a medical assessment.**
- Capacity can be highly transient, i.e., a person can be both capable and incapable on the same day. If you suspect this of your client, the assessment may not take place in only one sitting. You must establish when the most appropriate time(s) are to evaluate the adult based on their unique circumstances. In this situation, it would be helpful to have additional clinical information from a health professional to determine whether or not the client has a permanent, irreversible condition which affects his or her capacity.
- A client may be incapable due to delirium. Many of these delirious states may be easily rectifiable (i.e., dehydration). If you suspect that the client is delirious, you will need to make arrangements to bring the adult to the hospital for a medical assessment.

4. Factors that may influence the assessment

- Clients have a right to make decisions that others may feel show poor judgment or eccentric behaviour; this does not mean they are incapable to make those decisions.
- Unidentified cultural differences may cause us to see a client as incapable in relation to specific risk-related decisions.
- The client's answers may be influenced if family members are present; it may be best to conduct the interview in private.

Step 1: Assessing the Adult Protection Client's General Understanding of the Assessment

- Before assessing whether or not an adult understands and appreciates specific risk factors; you must ask general questions to assess the adult's overall understanding of why the assessment is taking place.
- At this point in the capacity assessment, ask the adult why he/she thinks a referral has been made to Adult Protection.

Question: Do you know why we are here today? Why do you think someone referred you to Adult Protection?

Decision Point:

1. **If the adult is able to comprehensively describe their situation, along with an understanding of why someone may make a referral to Adult Protection, this provides strong evidence that they have registered and reflected on the information. If you are satisfied that, based on the adult's answers, he/she is able to understand and appreciate his/her situation; close the file and give the adult information about available services and/or refer him/her to services if he/she requests.**
2. **If you are not satisfied that the client understands and appreciates the nature of his/her situation of risk, continue with the capacity assessment.**

- Document whether the client was able to understand the purpose/reason for the assessment / your visit. Explain. **Note: this section is mandatory.**

Step 2: Cognitive Assessment

- The evidence collected at this point of the assessment gives you an understanding of the client's orientation to time and place.
- Observations of impaired cognition are to be noted in this section of the assessment. This section is to be filled out even if there is a diagnosis from a doctor relating to cognitive impairment; if there is a diagnosis, it should be noted in the 'additional pertinent information' area. Choose the most appropriate observational tool(s).

- Observational tools will give you additional background information to use if you are unsure of a particular area of assessment and you require additional evidence to formulate a recommendation or conclusion. These screening tools are used as compliments to the overall risk assessment and provide more information for you to bring forward to health professionals who are involved in the risk assessment process.
- Observational tools such as the MMSE are NEVER to be used in isolation to determine if a client has or does not have capacity.

Observational Tools Used

- Please note, there may be cultural and language issues that could affect the scores for the following observational tools. The MOCA tool is available in a number of languages. See www.mocatest.org
- **MMSE: Standardized Mini Mental State Examination / Clock Drawing Test (QEII).** It is useful to test the client's orientation to time, person and place and his/her registration and recall of information to assess capacity. For this purpose, the QEII Standardized Mini Mental Status Exam (MMSE) is to be used. (See Appendix J.)
- **Remember: the result of the client's orientation test does not meet the legal standard for a declaration of capacity or incapacity**. It can, however, be used to get a feel for the client's cognitive state. **This is only one of the components of the overall capacity assessment.**
- On the capacity assessment form, write down the adult's answers to the questions. Nuances of how the client answers the question will often give you vital information related to the client's orientation, registration and recall.
- **MOCA: Montreal Cognitve Assessment.** The MOCA was designed as a rapid screening instrument for the detection of mild cognitive impairment. It was developed in response to the poor sensitivity of the Mini-Mental State Examination (MMSE) in distinguishing clients with mild cognitive impairment from normal elderly clients (Nasreddine et al., 2005) Thus, the MOCA is intended for clients with memory complaints who score within the normal range on the MMSE. The MOCA assesses the following cognitive domains: attention and concentrations, executive functions, memory, language, visuoconstructional skills, conceptual thinking, calculations, and orientation.
- Complete section as indicated, ensuring the date section is completed. Document any additional information or observations that may be important.

Step 3: Assessing the Client's Mental Capacity Related to Overall Areas of Risk

- The following two sections are based on your assessment of the client's ability to *understand and appreciate* both general and specific areas of risk.
- The ability to *understand* focuses on factual knowledge and problem-solving ability, including the understanding of options. The ability to *appreciate* is related to whether or not the individual has a realistic appraisal of the potential outcomes of living at a significant level of risk and can justify their choices. Appreciation in this context is the attachment of personal meaning to the level and nature of the risk; if a person has 'capacity', they are able to articulate how continuing to live at this level of risk will impact their life.

- Identify if the Adult Protection client was able to demonstrate understanding of the areas of risk.

Explain your answer.

- **Suggested Questions to Assess the Client's General *Understanding* of their Living Situation, Concerns about Abuse/Neglect and Functional Ability:**

    1. Tell me about your living situation; has anyone expressed any concerns to you? Do you have any concerns?
    2. Do you live alone? Who do you live with? Has anyone ever expressed concern about you living alone/ living with _____? What were the specific concerns?
    3. Do you have anyone who helps you with your daily routines? i.e. shopping, cleaning, cooking, medications
    4. If you do have someone helping you, is it a good arrangement?
    5. What does your daily routine look like? e.g. medications, daily routines, caretaking issues
    6. What medical needs do you have?
    7. Do you spend a lot of your time alone? How is this situation for you?
    8. Do you have any needs that you aren't able to meet? What are they?
    9. Describe for me what you would do if there was a fire, flood or if you had a fall in your living space?
    10. What would you do if you suddenly felt unwell?
    11. Have you had to go to the hospital in the past three months? What were the circumstances that led to your visit to the hospital?
    12. Has anything significantly changed for you in the past number of months?
    13. Do you ever feel unsafe? What would make you feel safe?
    14. Has anyone ever suggested to you that you should think about alternate living arrangements, e.g. nursing home?

- Identify if the Adult Protection client was able to articulate how these areas of risk affect his/her life? Explain your answer.

- **Suggested Questions to Assess the Client's General *Appreciation* of their Living Situation, Concerns about Abuse/Neglect and Functional Ability:**

    1. Do you have any concerns about your living situation?
    2. Why do you think that others have expressed concern about your living situation?
    3. Do you have any concerns about living alone/ living with _____? Why? What impact would it have on your life if you didn't live alone/ live with _____?
    4. Have you had any difficulties with getting through your day? What would improve this situation (if it needs improving)? If you had help with your daily routine, e.g. shopping/ cooking/ cleaning; how would this impact your living situation?
    5. If you have had any significant changes in the past number of months, how has this affected you? Your family? Your living situation?
    6. What do you think might happen to you if you stay living where/how you are?

7. Do you think an alternate living arrangement, (like a nursing home, if appropriate), would be a good idea for you? Why or why not?

Decision point:

If the person answers your questions without prompting and demonstrates understanding and appreciation into any risks related to his/her circumstances and how it is affecting his/her life; he/she has the *ability* to actively *choose* to protect him/herself from those specific risk factors. If you are satisfied with the individual's answers to the above questions, you may end the risk assessment and close the file.

If you do not receive complete answers to any of the above questions or if the individual does not seem to comprehend the nature of the question, you must continue the capacity assessment by asking more and more leading questions related to specific risk factors.

Document whether the Adult Protection client is able to demonstrate an understanding of the areas of risk and is able to articulate how these areas of risk affect his/her life and explain.

Step 4: Assessing the Adult Protection Client's Mental Capacity Related to Specific Areas of Risk

- In order to elicit evidence as to whether or not someone has capacity, you must ask specific questions related to an individual's unique situation of risk of abuse or neglect.
- Begin with open-ended questions about the specific risk factor(s). If the individual is able to clearly articulate in their own words the nature of the risk factor, how it impacts their life and what the consequences are of continuing to live with that risk factor, they would be considered to have the capacity to protect themselves from that area of risk.
- However, if the client is unable to answer open-ended questions about specific risk factors, you then ask increasingly leading questions to try to elicit information from the client. If the client is unable to answer even 'yes or no' questions related to specific risk factors, they would be considered to not have the capacity to make decisions related to that specific risk factor(s).

- **Specific areas of risk include:**
  - Urgent safety concerns; including allegations of abuse and/or neglect
  - Social isolation
  - Living arrangements, e.g. living in an apartment with no elevator if there are ambulatory concerns
  - Functional concerns, e.g. continence issues, medication management, cognitive functioning issues, IADLs, ADLs
  - Physical environment concerns
- Provide additional information if needed.

Step 5: Determining Whether to Refer to Other Professionals for Additional Information

- You are responsible to collect evidence by conducting the Adult Protection Risk and Capacity Assessment.
- You would refer to another health professional for two reasons:

  1. if your results from the initial assessment were inconclusive and you needed another opinion; *or*

  2. if you suspected that the incapacity of the adult might be related to a temporary, reversible condition such as delirium or mental health issues.

- If there is any ambiguity or need for more information throughout the capacity assessment, you will refer to the relevant professional to conduct his/her own specific, more detailed assessment.
- Capacity can also be affected by treatable, reversible conditions, such as mental illness or delirium related to potential medication management issues, certain medical conditions, improper nutrition or hydration, withdrawal from an addictive substance, etcetera. In order to meet the criteria of an adult in need of protection, the client must have a permanent, irreversible condition that affects his/her capacity.
- Professionals who may be involved in assessing Adult Protection clients for the purposes of the capacity assessment:

  General Practitioners - for potential medication management issues, medical history or behavioral history (GP usually has a longer term relationship with the client), recent changes in behavior, medication or diagnosis, other risk factors related to a person's diagnosis or past history such as addictions or mental health issues.

  Occupational Therapists - in most situations, occupational therapists would be accessed for the Adult Protection risk assessment, to assess a client's functional ability in their environment. However, for the purposes of the capacity assessment, occupational therapists may be referred to for a cognitive competency assessment if the Adult Protection worker needs more clarity in relation to the client's orientation to time, place, registration and recall abilities.

  Geriatrician - for potential treatable medical conditions that may affect capacity and if you need a more detailed medical assessment than from a general practitioner or physician at a hospital. Geriatricians are also referred to in some situations where you would need a second opinion related to capacity issues.

  Geriatric Psychiatrist - for potential capacity issues related to mental health and/or dementia and/or frontal lobe conditions. You would generally refer to a geriatric psychiatrist if the client:

  - had a history of mental health issues; and/or
  - demonstrated indicators of complex mental health concerns; and/or
  - demonstrated indicators of undiagnosed dementias and/or frontal lobe conditions; and/or
  - needed a more comprehensive cognitive competency assessment to establish orientation, registration and recall.

  Geriatric psychiatrists are also referred to in some situations where you would need a second opinion related to capacity issues.

- Determine if the client requires a referral and document referral.

Step 6. Mental Capacity Assessment Conclusion and Recommendation

- The focus of capacity-based decision making is on the *ability* of the individual to make a specific decision. All individuals have the right to live 'at risk' according to our values in Canada as articulated in the *Canadian Charter of Rights and Freedoms*. Essentially, if an individual is able to understand and appreciate the implications of living at significant risk and decides to remain living in a situation of risk, they are well within their rights to do so.
- Therefore, the Adult Protection capacity assessment demonstrates whether or not an individual can *understand and appreciate* the situation of risk that they are living in. If they fully comprehend the decision, their choices and the consequences of their actions or non-actions, they would not be considered an adult in need of protection.
- Essentially, a person with full decision-making capacity is able to:
    - Receive, comprehend, and relate relevant information;
    - Express their choice consistently;
    - Appreciate the nature of their decision;
    - Balance the risks, benefits, and consequences of various choices, including the consequences to others of choices made;
    - Apply a relatively stable set of values to the choice of available options; and
    - Communicate the rationale behind the choices.
- **Note:** Although cognitive impairments, such as diagnoses of dementia, may point to evidence that may lead to a determination of incapacity; these impairments in themselves do not constitute incapacity. The impairment may, in fact, be the underlying condition, but you need to be primarily concerned with the lack of *understanding* and *appreciation* of the risk of abuse or neglect that may accompany such an impairment.
- For the purposes of your recommendation and conclusion, gather all of the information collected throughout your assessment and combine it with the assessment of other professionals (if relevant) and use your professional judgment to analyze the situation. Based on this analysis, you will make a recommendation concerning the client's capacity to understand and appreciate his/her situation of risk.

Mandatory Decision

The Adult Protection Worker must make a decision and choose one of the following three options:

1. **The client *is not* capable to protect him/herself from the assessed risks-** In this situation, you are confident that the client is not able to understand the risks that they are living in and are unable to appreciate the consequences of continuing to live in his/her environment. If this is the case, *and* the client has a permanent, irreversible condition affecting his or her capacity to protect him or herself, you would work with a guardian or substitute decision maker (designated by the *Personal Directives Act*) to make service referrals for the client under *Section 7* of the *Adult Protection Act*. If no substitute decision maker is willing and able to make those decisions for the client, or if you have evidence to substantiate that the substitute decision maker is not acting in the best interests of the

client, or if there is evidence to substantiate abuse/serious neglect of the client, you must apply for a court order to impose services under a *Section 9* or *10* as appropriate.

2. **The client is *most likely not able* to protect him/herself from identified risks-** In this situation, *even after receiving evidence from other health professional(s);* you conclude that the client *most likely* is incapable of protecting him/herself from the significant risks that have been identified through the Adult Protection assessment. However, the result is inconclusive; therefore, a judge will have to make the determination of incapability in order to ensure that the client's rights are being fully respected. You will need to seek a court order through a *Section 9* or *10*.
3. **The client *may/may not be* able to protect him/herself; the results are inconclusive-** In this situation, *even after receiving evidence from other health professional(s);* you are unable to conclude if the client *may or may not be* capable of protecting him/herself from the significant risks that have been identified through the Adult Protection assessment, you will need to seek a court order through a *Section 9*.
4. **The client *definitely is able* to protect him/herself from identified risks-** In this situation, the client may be living at significant risk as identified through the Adult Protection assessment, but is making active choices to remain in that situation of risk. In this situation, he or she is *capable* of protecting him/herself and, therefore, **does not meet the criteria of an adult in need of protection**. At this point, you would close the file, give the client relevant service information and refer him or her for services at his/her request.

Section 3: Meeting the Criteria of the *Adult Protection Act*

- This part of the assessment is trying to identify whether or not the person's mental incapacity to protect themselves from risk is permanent and irreversible in nature. Adult Protection is a serious measure; we have the ability to take away someone's rights and to intervene against their wishes. This can have a serious impact on an individual's life and mental and physical health. **Therefore, Adult Protection only intervenes in the lives of individuals who have a permanent, irreversible condition that affects their physical and/or mental ability to protect themselves from risk.**

A. Assessment of Medical Conditions Which May Have a Transitional Effect on Mental Capacity

- Some medical conditions can affect a person's mental capacity temporarily (i.e. acute infections, delirium, cessations of addictive substances).
- It is important for you to rule out any transitional causes that could impact a person's mental capacity.
- If no medical conditions or causes were identified check the 'None Identified' section.
- If medical conditions or causes were identified check the appropriate section(s).
- Identify if the Confusion Assessment Method (CAM) was administered and document the results.
- Indicate if the client has a condition that most likely has a transitional effect on his/her mental capacity.

B. Assessment of Personal and/or Household Care Patterns

- It is important to assess the client's pattern of personal and household care in order to determine if there has been a change in their typical pattern of behavior and what degree of change there has been. Has there been a recent decline in the client's personal and/or household care? Some individuals may not have very hygienic practices, but may have been living this way for their entire independent life. They would not be considered 'at risk' if they have consistently been living in this state; unless there were other risk factors present that made this situation more risky than previously.
- If there are no concerns identified, check the 'Not a Concern' section.
- If there are concerns identified, check the appropriate section(s).
- Note any additional pertinent information in the corresponding section.

C. Assessment of Medical Diagnosis Associated with Cognitive Functioning

- It is important to assess whether the client is diagnosed with any medical conditions that are associated with cognitive functioning in order to determine the permanency or reversibility of his or her mental incapacity.
- Cognitive conditions such as dementias, brain injuries (depending) and congenital cognitive conditions may be permanent and irreversible in nature.
- If the client's ability to protect him/herself from risk can be managed with medication or another treatment, his/her mental incapacity would not be considered permanent and irreversible (i.e. some mental illnesses).
- If there was no relevant diagnosis at the time of the Adult Protection Assessment, check the corresponding section.
- If there was a relevant diagnosis at the time of the Adult Protection Assessment, check the appropriate section.
- If there was a diagnosis checked identify if there was a medical consultation concerning the medical diagnosis. Note the physician's name and his or her role.
- Identify if whether or not the client's condition is permanent/irreversible and explain why.
- Identify whether a Medical Observation Form was completed or not.
- Note any additional pertinent information in the corresponding section.

D. Assessment of Active Substance Abuse Concerns on Cognitive Functioning

- It is important to assess whether the client has any substance abuse concerns that could impact his/her mental capacity.
- If no substance abuse concerns are identified check the 'None Identified' section.
- If it is unknown if there are substance abuse concerns at the time of the assessment, check the 'Unknown at Time of Assessment' section.

- If there are substance abuse concerns, check the appropriate sections.
- Summarize any pertinent information in the corresponding section (i.e**.** type of alcohol/drug used, duration of substance abuse, severity of use, length of abstinence).

E. Conclusion

- In this section of the assessment, you determine if the client meets the criteria of an adult in need of protection.
- Use the Adult Protection Decision Tree (Policy 8.3) and the Adult Protection Risk Continuum (Policy 8.2) to guide you through this process.

I. Client Meets the Criteria of the *Adult Protection Act*

- **Note: All 3 of the following conditions must exist for a client to meet criteria of the *Adult Protection Act*:**
    - Adult is living at s*ignificant r*isk
    - Adult is *unable to protect him/herself* due to a physical or mental incapacity
    - Adult has a *permanent/irreversible* condition
- Ensure the corresponding areas are checked.
- Note any additional pertinent information in the corresponding section.

II. Client *Does Not* Meet the Criteria of the *Adult Protection Act*

- Indicate if the file was closed and that the client and/or the substitute decision maker (if appropriate) were informed of the outcome; check the corresponding section.
- Identify if the client and/or his or her substitute decision maker were or were not given information about relevant services.
- Identify if the client was or was not referred for services.
- Note any pertinent information in the corresponding section, including which services were referred to (if relevant).

Section 4: Care Planning Considerations

- If the client did not meet the criteria of an adult in need of protection, check the 'Not Applicable' section. **Otherwise this section is mandatory to complete.**

A. Consideration of Client's Expressed Wishes for Care Planning

- In this section, you ***must*** indicate if the client had expressed their wishes in relation to services in the community and/or placement options before the onset of mental incapacity to family members, etc. If he or she has expressed those wishes and we have the ability to accommodate him or her without giving services over and above any other Nova Scotian, we have a responsibility to accommodate his or her wishes.

- If the individual is expressing his/her wishes in an incapacitated state the assessor ***must*** consider whether or not the wishes are in the best interests of the client.
- All wishes must be documented.
- Indicate whether the client has previously expressed wishes concerning a situation that might involve Adult Protection in the corresponding section.
- Indicate whether the client has previously expressed wishes concerning home care, long term care or residential services in the corresponding section.
- Indicate whether the client has documentation (ie. a personal directive) to support his or her previously expressed wishes in the corresponding section.
- Indicate whether the client expressed wishes during the Adult Protection Assessment related to home care, long term care or residential services in the corresponding section.
- Indicate whether Continuing Care, the Department of Health and Wellness or the Department of Community Services are able to accommodate the client's wishes in the corresponding section.
- Provide any additional pertinent information in the corresponding section, including a rationale for not accommodating a client's wishes (if relevant).

B. Consideration of Existing Referrals and/or Assessments for Care Planning

- It is important to know for care planning if there are existing referrals for other assessments for the client when considering care options.
- Note if any assessments were referred for or completed with the client prior to Adult Protection being involved in the corresponding sections.
- If any assessments were referred for or completed, note the type of assessment, who completed the assessment and the date of the assessment.
- Note additional pertinent information in the corresponding section and note if the assessment(s) are on the Adult Protection paper file.

C. Assessment of Behavioral Considerations for Client Care Planning

- In order to ensure that the client is receiving the safest and most appropriate level of service, it is important to know if the client is exhibiting any behaviors that could place them at risk and to inform the service provider(s).
- If the client is not exhibiting any behaviors that could impact their care level assessment, check 'None'.
- If the client is exhibiting behaviors that could impact their care level assessment, check the appropriate section(s).
- Note any additional pertinent information in the corresponding section.

D. Assessment of Current Care Service Considerations for Client Care Planning

- If there aren't any current services in place for the client, check 'None'.
- If there are services in place for the client, identify the type of service, the service provider, contact persons and their numbers and the weekly schedule (include number of visits and the hours).
- If there were previous referrals made for service, note the services the client was referred for, the referral date, the expected start date and the contact person.
- Note any additional pertinent information in the corresponding section.

Section 5: Implementing the Care Plan

Refer to the Adult Protection Care Planning Decision Tree (Policy 8.3) for guidance for this process.

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A. Referral for Services (*Section 7*)

- **The *Adult Protection Act* states in *Section 7*:** Where, after an assessment, *the Minister is satisfied that a person is an adult in need of protection, the Minister shall assist the person*, if the person is willing to accept the assistance, in obtaining services which will enhance the ability of the person to care and fend adequately for himself or will protect the person from abuse or neglect. R.S., c. 2, s. 7.
- This means that once you conduct your assessment and you *conclude that an adult is in need of protection*, **you are able to refer the client for services and he/she will receive a priority of service based on his/her need to be protected.**
- If this section is not applicable, check the "Not Applicable" section.
- Indicate if you have consulted with your supervisor.
- Clients who have a physical incapacity to protect themselves, but who are able to give informed consent for services, *can* give consent for a referral for services. If this is the situation, check the corresponding section.
- If the client is mentally incapacitated to protect him/herself from the assessed risk(s), indicate:
    - If he/she does not have an appropriate substitute decision maker, check the 'None' section
    - If he/she has a delegate, check the appropriate box and ensure that you have a copy of the personal directive on the paper file
    - If he/she has an appropriate statutory substitute decision maker, check the corresponding section
    - If he/she has a guardian, check the appropriate box and make sure there is a copy of the guardianship order on the paper file
- Indicate whether the substitute decision maker is willing to act, unwilling to act or failing to act in the best interests of the client. For clarity in regards to best interests, see the *Personal Directives*

Act Regulations.

- Provide any additional pertinent information in the corresponding section.
- If the client is being referred for services, identify:
  - what services he/she is being referred to, and
  - the follow up plan
- Indicate if the client and the substitute decision maker are informed of the status of the investigation and all referrals- **this is mandatory.**
- If the case is being closed, indicate that the client and the substitute decision maker are informed that the case is being closed- **this is mandatory**. Check the appropriate section when the case is closed. For guidance, see the *Adult Protection Case Closure Process Map*.

B. Court Intervention

- If there will be an application for a court order, identify which section(s) of the *Adult Protection Act* will apply:
  - *Section 10*: Removal for Protection
  - *Section 9 (3)(c)* – Court Application (for services, including placement)
  - *Section 9(3)(d)* – Protective Intervention Application
- Indicate that you have consulted with the Adult Protection supervisor- **this is *mandatory* for court interventions.**
- Note what services are being recommended.
- Provide details of the follow up plan.
- Identify that the client has been informed of the status of the investigation and all referrals- **this is mandatory.**

Section 6 - Summary Points/Additional Comments:

- Document any summary points and/or additional comments in this section.
- Fill in your name and sign and date the form.

Adult Protection Risk and Capacity Assessment Field Guide

If other persons are present during the assessment ensure they understand that they are not to cue or prompt the client for answers to questions during the assessment.

It is important to note that the capacity assessment will take place *throughout* the risk assessment. As you have a conversation with the client about the indicators of risk of his/her situation you should *always* be assessing whether or not he/she demonstrates *understanding and appreciation* or *judgment and insight* into his/her situation of risk.

Risk and Capacity Assessment

1. Introduction

a. Introduce yourself

b. Identify yourself as being an Adult Protection Worker

c. Explain the purpose of your visit

d. Explain the Risk and Capacity Assessment process in a manner which the client will understand

e. If the Client refuses to be assessed, explain the situation will reviewed to determine if a court application for an order to compel an assessment will be necessary

f. Explain court application process, timelines and next steps in a manner the client will understand.

2. Risk Assessment

I. Is immediate intervention required?

- Are there any risk factors that would prompt an immediate intervention (i.e. the client has wandered, set a fire, requires medical treatment, was abandoned, is malnourished and/or dehydrated)?

II. Are there any indicators that the client is suffering from serious physical and/or psychological harm as a result of abuse and/or neglect?

- **Visible Physical Indicators** (i.e. bruises, lacerations, broken teeth, burns, pressure marks, bleeding, contractures, untreated bed sores/skin ulcers, soiled, torn or bloody clothing, soiled clothing)
- **Client Behavioral Indicators** (i.e. withdrawn, fearful, anxious, agitated)
- **Historical/ Environmental Indicators** (previously untreated serious medical conditions, client has been left alone when supervision is needed, client restrained physically or medically inappropriately)
- **Risk Indicators for the Alleged Abuser/Neglecter** (i.e. found guilty or charged with abuse/neglect previously, negative attitude, inappropriate responses to client and/or assessment, substance abuse, mental health issues, stressors, access)

III. Are there functional risks for the client?

a. **Activities of Daily Living Risks** (dressing, ambulation, feeding, toileting, etc.)?

b. **Instrumental Activities of Daily Living Risks** (meal prep, cleaning, transportation)?

c. **Life Sustaining Medication Management and/or Medical Treatment Risks** (not administered properly by either client or caregiver)?

d. **Cognitive Functioning Risks** (confusion/disorientation, hallucinations, paranoia or delusions, impaired ability to plan & organize, cannot recognize or identify objects, people, sounds)?

e. **Physical Functioning Risks** (hearing, visual, physical limitations, fall(s) requiring medical treatment, skin breakdown, unable to self-evacuate)?

f. **Continence Risks** (type, frequency, is it being managed)?

IV. Are there physical and/or social environment risks for the client?

a. **Physical Environment Risk Indicators** (no heat, no water, non-functional plumbing, no electricity, no food)

b. **Social Environment Risk Indicators** (do they live alone or with someone, type of dwelling, not able to activate 911, no relevant support services in proximity, no phone, no family or friends in proximity)

c. **Other Risk Indicators** (essential in home services have been refused or withdrawn, client does not consistently cooperate)

V. What is the overall determination of risk for the client?

If there are not reasonable and probable grounds to believe the client is living at an extremely high or high level of risk do not continue with the assessment.

Reminder:

Extremely High Risk- client's life is in *imminent* danger or at *imminent* risk of serious psychological and/or physical harm due to abuse/neglect

High Risk- client's is living in a life-threatening situation or is at risk of serious psychological or physical harm due to abuse/neglect

Moderate Risk- client is living in a situation where his/her independence and standard of living is compromised ***or*** is in a situation where he/she is not at risk of some (but not serious) psychological and/or physical harm due to abuse/neglect

Low Risk- client is living in a situation where his/her independence and standard of living of living is *somewhat* compromised or he/she is living in a situation where he/she may be at minimal risk of psychological and/or physical harm.

3. Mental Capacity Assessment

Step 1. Assess the Client's General Understanding of the Assessment

- Ask the client why he/she thinks you are there today and why he/she thinks someone would call Adult Protection about his/her situation.

If the client is able to articulate this clearly, demonstrating *understanding and appreciation of the consequences of living at a high or extremely high level of risk*; **do not continue with the assessment.**

Step 2. Conduct a Cognitive Assessment with the Client

- Ask the client basic questions to assess his/her general orientation to date/time/place and/or use an observation tool to assist with this process (MMSE, FAB, MOCA, Clock Drawing).

Step 3. Assess Mental Capacity Related to *Overall* Areas of Risk

- **Summarize the general contents of the risk assessment with the client in plain language.**
- **Assess the client's *understanding* of the *general* areas of risk that they are living in using open-ended questions.**
    - Can he/she put those risks into his/her own words?
- **Assess the client's *appreciation* of the risks *in general* using open-ended questions.**
    - Can he/she articulate how the general findings of the assessment impact his/her life, and the lives of family members/ loved ones?
    - Can he/she articulate the consequences of not moderating or eliminating the overall risk factors?

If you believe the client *was able* to demonstrate and articulate an understanding of the risks and that they have an appreciation of the likely consequences of the risks then ***do not continue with the assessment.***

Step 4. Assess Mental Capacity Related to *Specific* Areas of Risk

- Summarize the specific risk factors with the client in plain language as you are moving through this process with the client.
- Begin with open ended and moving to yes/no questions if client is unable to answer the open ended questions.

a. Assess the client's *understanding* of the *specific* areas of risk that they are living in.

- Can he/she put those risks into his/her own words?

b. Assess the client's *appreciation* of the *specific* risks.

- Can he/she articulate how these *specific* risk factors impact his/her life, and the lives of family members/ loved ones?
- Can he/she articulate the consequences of not moderating or eliminating each, *specific* risk factor?

Consider throughout the questioning if you have to prompt the client, to what extent do you have to prompt them?

Meeting the Criteria of the *Adult Protection Act* (Permanent/Irreversible Condition Affecting the Person's Capacity)

- Does the client have a medical condition that may have a transitional effect on his/her mental capacity? (recent infections, cessation of an addictive substance, changes in meds, heart conditions, liver or kidney disease etc.) Indicate if the CAM was used.
- Has the client's personal and or household patterns changed recently? Gradual decline? Consistent with history?
- Does the client have a diagnosis which could affect his/her mental capacity? (dementia, brain injury, mental illness)

- Does the client have an active alcohol and/or drug abuse problem?

Decision Point – Is the Client an Adult in Need of Protection?

- **Is he/she living at an extremely high or high level of risk?**
- **Is he/she unable protect him/herself from the assessed risk due to a mental/physical incapacity?**
- **Is the mental/physical incapacity is permanent and irreversible?**

No - Advise client and/or SDM (if appropriate) of the results of assessment, of available services and reasons AP could become re-involved; if the client and/or SDM requests, refer for services.

Yes - Intervention required.

Uncertain - Refer on to appropriate professionals for additional information concerning the risks facing this person and/or for additional assessment(s) of the person's physical and/or mental capacity.

Care Planning Considerations

Does the client:

- Have documented and/or expressed wishes for services and/or AP intervention
- Have an appropriate SDM who is able and willing to act
- Have access to current services (service availability issues)
- Have behavioral challenges that need to be communicated to service providers

Decision Point- Intervention

- *Section 7*- Referral for services if the client and/or an appropriate SDM can consent
- *Section 9* - Application for an AP Order for services (including placement)
- *Section 10* – Application to immediately remove the client from his/her premises

Explain Plan to Client and SDM (if appropriate)

Contact Appropriate Services to Initiate Intervention (i.e. EHS, Police, DCS or CC Placement, OPT)

NOVA SCOTIA

Adult Protection Medical Observation Form

This form must be completed by a qualified medical practitioner

Client's name:	**DOB:**	**HCN:**
Address		
	Phone number	
Personal Physician contact information:		
Date of referral to you from Adult Protection:	**Date of your medical assessment:**	

I. Preliminary Medical Assessment Questions

a) Was your assessment conducted in person or virtually? ☐ Yes ☐ No If no, explain why:

b) Is this adult medically stable at this time? ☐ Yes ☐ No ☐ Unknown

2. Medical Assessment of Risk Due to Abuse/Neglect/Self-Neglect

Type of abuse: ☐ Physical ☐ Sexual ☐ Emotional ☐ Neglect

a) Is there medical evidence to suggest this adult has suffered *serious physical and/or psychological harm* due to abuse, neglect and/or self-neglect? ☐ Yes ☐ No ☐ Unknown

Describe circumstances and extent of abuse, nature of injury, behavioral indicators and or other relevant information. Please attach any relevant medical reports:

b) Provide a summary of physical exam findings.

c) Did or does this adult require medical treatment related to the alleged abuse, neglect and/or self-neglect? ☐ Yes ☐ No

If yes, explain:

d) Name of alleged perpetrator(s) if known _____ DOB/Age _____

Relationship of alleged perpetrator(s) to the client_____

Are you aware of any information to suggest that this adult or others are at risk from this alleged perpetrator? ☐ Yes ☐ No

If yes, please explain:

e) Have there been prior concerns of abuse obtained through your history or physical exam? ☐ Yes ☐ No ☐ Unknown

if yes, please provide a summary and attach relevant reports.

Client's name:	DOB:	HCN:

f) If applicable, has evidence been placed in the care of Police? ☐ Yes ☐ No ☐ N/A

Name of Officer/Detachment _____

3. Assessment of Cognitive and Physical Functional Ability to Protect Self

a) Does this adult have any cognitive impairments that would affect his/her ability to protect themselves or be unable to make provisions to protect himself/herself from abuse, neglect and/or self-neglect: ☐ Yes ☐ No Explain:

b) If yes, are the cognitive impairment(s) permanent & irreversible? ☐ Yes ☐ No Explain:

c) Did you use any assessment tools to assess the mental capacity of this adult (i.e. MMSE, MOCA)? ☐ Yes ☐ No
If yes, identify & attach:

d) Does this adult have a medical diagnosis related to his/her cognitive impairment(s)? ☐ Yes ☐ No If yes, identify the diagnosis:

e) Does this adult have any physical impairments that would affect his/her ability to protect themselves or be unable to make provisions to protect himself/herself from abuse, neglect and/or self-neglect: ☐ Yes ☐ No If yes, is it/are they permanent ☐ Yes ☐ No
Explain:

f) Have any functional assessments been conducted with this adult (i.e. OT, Physio)? ☐ Yes ☐ No If yes, identify assessments & attach:

g) Have any additional, relevant assessments been conducted with this adult (i.e. Geriatric, Seniors Mental Health)? ☐ Yes ☐ No
If yes, explain & attach assessments:

h) Is this adult prescribed any life sustaining medications or does this adult require essential medical treatment/care? ☐ Yes ☐ No
If yes, explain:

Client's name:	DOB:	HCN:

i) Is there evidence of medication mismanagement, harmful side effects from medication, or lack of essential medical care? ☐ Yes ☐ No

If yes, this evidence is based on: ☐ Test results and/or reports from the ☐ Adult ☐ Family ☐ Service Provider Explain:

j) Does this Adult have any active substance abuse problems? ☐ Yes ☐ No ☐ Unknown If yes, explain:

4. Medical Opinion of Adult's Mental Capacity to Understand & Appreciate Risk and Ability to Protect Themselves

☐ In my medical opinion this adult ***has*** the ***mental capacity*** (for legal purposes - is mentally competent):

- to be able to understand & appreciate the consequences of the risk(s) (abuse, neglect &/or self-neglect) that have been assessed/identified;
- to be able to protect themselves and/or make provisions to protect themselves from the assessed/identified risk(s).

☐ In my medical opinion this adult ***does not*** have the ***mental capacity*** (for legal purposes - is mentally incompetent):

- to be able to understand & appreciate the consequences of the risk(s) (abuse, neglect &/or self-neglect) that have been assessed/identified;
- to be able to protect themselves and/or make provisions to protect themselves from the assessed/identified risk(s); and
- this condition is permanent and irreversible.

☐ I am ***not able*** to provide an opinion about this Adult's mental capacity to understand & appreciate and/or their ability to protect themselves and/or make provisions to protect themselves from the risk(s) (abuse, neglect &/or self-neglect) that have been assessed/identified.

5. For the Purposes of the Public Trustee's Office

a) In your opinion is the adult mentally competent to manage their finances? ☐ Yes ☐ No Explain:

6. Summary

a) Please provide any recommendations you may have related to this assessment:

b) Would you recommend a referral for further assessment of this adult? ☐ Yes ☐ No If yes, explain:

Name:	Signature:
Date:	Contact #:

NOVA SCOTIA
Health and Wellness

Adult Protection

To: _____ (name of medical practitioner),

Attached is an Adult Protection Medical Observation Form. Adult Protection is requesting that you provide your professional observations and recommendations on the following specific areas of risk and/or capacity for _____ (name of client):

- ☐ Client has possible indicators of physical, sexual and/or psychological abuse
- ☐ Assessment of possible physical functioning impairments or cognitive deficits which would affect the client's ability to function in his/her current living situation
- ☐ Assessment of possible medication management issues which could put the client in a situation of high or extremely high risk
- ☐ Assessment of possible mental capacity issues in relation to the client's assessed risk(s)
- ☐ Other, (please explain):_____

Please ensure you provide all the pertinent details, print legibly, sign and date the form.

Please complete this form as soon as possible and fax it back to Adult Protection at _____. If you have any questions or concerns I can be contacted at _____.

Sincerely,

_____ _____

Adult Protection Worker Date

Person Authorized by the Minister of Health and Wellness
Pursuant to Section 4 of the Adult Protection Act

Adult Protection Medical Observation Form: Information Sheet for Physicians

Medical Observation Form for the Purposes of Adult Protection

In Nova Scotia, the *Adult Protection Act* guides the work conducted by the Adult Protection team. Adult Protection is tasked with intervening when adults (over the age of 16) cannot protect themselves from self-neglect, abuse and/or neglect. Adult Protection workers have a comprehensive risk assessment form which must be completed at the assessment stage of an Adult Protection intervention.

The risk assessment focuses on the following criteria; if an adult meets these criteria, he/she would be considered to be an adult in need of protection.

The Adult:

1. is over the age of 16;
2. is living at a high or extremely high level of risk (as determined by the Adult Protection Risk and Capacity Assessment);
3. does not have the physical and/or mental capacity to protect him/herself from the assessed risk(s);
4. has a permanent, irreversible condition that affects his/her capacity to protect him/herself from the assessed risk(s).

The risk assessment will be made available to you to assist you with your assessment. However, it is important to note that it may not be fully complete depending on the timing and/or nature of the Adult Protection intervention.

The Role of the Medical Practitioner

In order to assess the above criteria, an Adult Protection worker may need further information from a qualified medical practitioner to provide additional evidence to support that an adult is (or is not) in need of protection. This information and/or assessment are considered to be part of the overall Adult Protection Risk and Capacity Assessment.

According to the ***Adult Protection Act*****:**

"Inquiry and assessment by Minister

6 *Where the Minister receives a report that a person is an adult in need of protection, he shall*

(a) make inquiries with respect to the matter; and

(b) if he finds there are reasonable and probable grounds to believe the adult is in need of protection, cause an assessment to be made,

and the Minister may, if he deems it advisable, request a qualified medical practitioner to assess the adult, the care and attention the adult is receiving and whether the adult has been abused. R.S., c. 2, s. 6."

In addition to a medical assessment, Adult Protection recognizes that there is often a long-term relationship between individuals and their personal physicians. If you are an Adult Protection client's personal physician, you may have additional information about changes in behavioral patterns and/or medical conditions that may be particularly relevant to the determination of whether or not an adult is in need of protection.

Adult Protection Medical Observation Form

For Review of An Existing Adult Protection Court Order

Please note: this form must be filled in by a *qualified medical practitioner*. Please write legibly, sign & date.

Client's name:	DOB:	HCN:
Address and phone number:		
Personal Physician contact information:		
Date of referral to you from Adult Protection:	Date of your medical assessment:	

1. Assessment of Cognitive and Physical Functional Ability to Protect Self

a) Has there been any improvement with this adult's cognitive impairments that would enable him/her to be have the ability to protect themselves or be able to make provisions to protect themselves from abuse, neglect and/or self-neglect: ☐ Yes ☐ No Explain:

b) Are the adult's cognitive impairment(s) still permanent & irreversible? ☐ Yes ☐ No Explain:

c) Did you use any assessment tools to assess the mental capacity of this adult (i.e. MMSE, MOCA)? ☐ Yes ☐ No

If yes, identify & attach:

Client's name:	DOB:	HCN:

d) Has there been any improvement with this adult's physical impairments that would enable him/her to be have the ability to protect himself/herself or be able to make provisions to protect himself/herself from abuse, neglect &/or self-neglect:

☐ Yes ☐ No ☐ Not Applicable If no, is/are this Adult's physical impairment(s) still permanent? ☐ Yes ☐ No

Explain:

e) Have any functional assessments been conducted with this adult (i.e. OT, Physio)? ☐ Yes ☐ No If yes, identify assessments & attach:

f) Have any additional, relevant assessments been conducted of the adult (i.e. Geriatric, Seniors Mental Health)? ☐ Yes ☐ No

If yes, explain & attach assessments:

Client's name:	DOB:	HCN:

3. Medical Opinion of Adult's Mental Capacity to Understand & Appreciate Risk and Ability to Protect Themselves.

☐ In my medical opinion this adult still ***does not*** have the ***mental capacity*** (for legal purposes - is mentally incompetent):

- to be able to understand & appreciate the consequences of the risk(s) (abuse, neglect &/or self-neglect) that had caused the need for the Adult Protection court order;
- to be able to protect and/or make provisions to protect themselves from the risk(s); and this condition is still permanent and irreversible.

☐ In my medical opinion this adult ***has*** the ***mental capacity*** (for legal purposes - is mentally competent):

- to be able to understand & appreciate the consequences of the risk(s) (abuse, neglect &/or self-neglect) that had caused the need for the Adult Protection court order;
- to be able to protect and/or make provisions to protect themselves from the risk(s).

☐ I am ***not able*** to provide an opinion about this Adult's mental capacity to understand and appreciate and/or their ability to protect themselves and/or make provisions to themselves from the risk(s) (abuse, neglect and/or self-neglect) that caused the need for the Adult Protection court order.

IV. Summary

a) Please provide any recommendations you may have related to this assessment:

b) Would you recommend a referral for further assessment of this adult? ☐ Yes ☐ No If yes, explain:

Name:	Signature:
Date:	Contact #:

NOVA SCOTIA
Health and Wellness

Adult Protection

To: _____ (name of medical practitioner),

Attached is an Adult Protection Medical Observation Form for Review of an Existing Court Order. Adult Protection is requesting that you provide your professional observations on the level of risk and mental capacity for _____ (name of client):

Please ensure you provide all the pertinent details, print legibly, sign and date the form.

Please complete this form as soon as possible and fax it back to Adult Protection at _____. If you have any questions or concerns I can be contacted at _____.

Sincerely,

_____ _____

Adult Protection Worker Date

Person Authorized by the Minister of Health and Wellness
Pursuant to Section 4 of the Adult Protection Act

NOVA SCOTIA
Health and Wellness

Adult Protection Services

To: Peace Officers - In and for the Province of Nova Scotia

Re: Request for Police Assistance

***Section 15* of the *Adult Protection Act* states:**

*A **peace officer** shall assist with the **execution of an order** issued pursuant to this Act or with the **conveyance** of an adult in need of protection to a place directed in accordance with this Act when requested to do so by a person acting for the Minister or pursuant to an order of the court.* 1985. c2, s15.

Pursuant to ***Section 15* of the *Adult Protection Act*** you are required to assist the undersigned with:

The conveyance of _____, an adult in need of protection,

❒ Within the meaning of ***Section 10(1)*** of the *Adult Protection Act* (attached),

❒ Pursuant to a **Court Order** issued under ***Section 9*** of the *Adult Protection Act* (attached),

to _____, a fit and proper place for his/her protection.

_____ _____

Adult Protection Worker Date

Person Authorized by the Minister of Health and Wellness
Pursuant to Section 4 of the Adult Protection Act

NOVA SCOTIA
Health and Wellness

Adult Protection Client or Substitute Decision Maker Consent Form for Taking Photographs and/or Video of the Client's Physical Environment

Client: _____DOB (d/y/m) _____ HCN _____

Consent to take photographs and/or video of the client's physical environment
In order to provide a fully informed assessment, the Adult Protection worker who is assessing the client's situation has determined that he or she should take photographs and/or video of the client's physical environment. This is for the sole purposes of providing additional evidence of the level of risk in which the client is living and for no other purposes. Any sharing of this information will be undertaken with the highest respect for the privacy of the client.

Client Consent

I _____ of _____ in the Province of Nova Scotia, Canada; provide consent to persons in the employ of Adult Protection, Nova Scotia Department of Health and Wellness to take photographs and/or video of my physical environment for the sole purposes of providing additional evidence for the Adult Protection Risk and Capacity Assessment. I understand that this will be done in the most respectful and least intrusive manner.

Substitute Decision Maker Consent

I _____ of _____ in the Province of Nova Scotia, Canada; provide consent to persons in the employ of Adult Protection, Nova Scotia Department of Health and Wellness to take photographs and/or video on behalf of the Adult Protection client_____. I am the legally authorized substitute decision maker under the *Personal Directives Act*. To the best of my knowledge, the client has not expressed previous wishes related to taking photographs and/or videos during an investigation of this nature. I understand that the photographs and/or videos will be taken for the sole purposes of providing additional evidence for the Adult Protection Risk and Capacity Assessment. I understand that this will be done in the most respectful and least intrusive manner to the client.

_____ _____
Signature Date

_____ _____
Witness Signature Date

Policy: 6.1 Meeting the Criteria for Adult Protection Care Planning

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

6.1 PURPOSE

Care Planning in Adult Protection is the stage of intervention that occurs after an Adult Protection client is determined to be an adult in need of protection.

There are three options for care planning for an adult in need of protection in the *Adult Protection Act*:

1. *Section 7: Assistance by Minister*

7 *Where, after an assessment, the Minister is satisfied that a person is an adult in need of protection, the Minister shall assist the person, if the person is willing to accept the assistance, in obtaining services which will enhance the ability of the person to care and fend adequately for himself or will protect the person from abuse or neglect. R.S., c. 2, s. 7.*

2. Section 9: Order of court

(3) *Where the court finds, upon the hearing of the application, that a person is an adult in need of protection and either*
(a) is not mentally competent to decide whether or not to accept the assistance of the Minister; or
(b) is refusing the assistance by reason of duress,
the court shall so declare and may, where it appears to the court to be in the best interest of that person,
(c) make an order authorizing the Minister to provide the adult with services, including placement in a facility approved by the Minister, which will enhance the ability of the adult to care and fend adequately for himself or which will protect the adult from abuse or neglect;
(d) make a protective intervention order directed to any person who, in the opinion of the court, is a source of danger to the adult in need of protection

> *(i) requiring that person to leave the premises where the adult in need of protection resides unless that person is the owner or lessee of the premises,*
> *(ii) prohibiting or limiting that person from contact or association with the adult in need of protection,*
> *(iii) requiring that person to pay maintenance for the adult in need of protection in the same manner and to the same extent as that person could be required to pay pursuant to the Family Maintenance Act.*

3. *Section 10: Removal for Protection*

10 (1) *Where on the basis of an assessment made pursuant to this Act the Minister is satisfied that there are reasonable and probable grounds to believe that*
(a) the life of a person is in danger;
(b) the person is an adult in need of protection; and
(c) the person is not mentally competent to decide whether or not to accept the assistance of the Minister or is refusing the assistance by reason of duress,
the Minister may authorize the immediate removal of the person to such place as the Minister considers fit and proper for the protection of the person and the preservation of his life, and a person so authorized may take reasonable measures to remove the person whose life is in danger.

6.1.1 POLICY

Adult Protection workers must conclude that an Adult Protection client meets the criteria of an adult in need of protection before beginning the care planning process.

When considering options for the client in the Adult Protection Care Plan, the Adult Protection worker must refer to Policy 8.3.

All interventions must be the least intrusive option and made in the adult's best interests. The Adult Protection worker will inform the client and his or her substitute decision maker (if appropriate) of all recommendations and conclusions made during the care planning process and of any changes to the care plan. The worker will also consult with the client and his or her substitute decision maker (as appropriate) to the greatest extent possible when developing the care plan.

The Adult Protection worker must consider the following options in the order in which they are written to demonstrate that he or she has considered all the least intrusive options. This may happen very quickly; particularly with clients who are living at an extremely high level of risk where action has to be taken right away. An Adult Protection worker must have a rationale to explain why he or she was not able to proceed with the less intrusive option.

The following must be considered when making a determination of which intervention is the most appropriate for the adult in need of protection:

1. *Section 7*- If the client either has the mental capacity to consent for a referral for services him or herself *or* does not have the mental capacity to consent for services, but has a legally appointed substitute decision maker (SDM) who is willing and able to consent for a referral for services on behalf of the client, the Adult Protection worker refers the adult in need of protection for a referral for services without going to court;

2. *Section 9*- If the client does not have the mental capacity to consent for a referral for services him or herself *and*:

- is consistently refusing services; and/or
- is experiencing serious harm due to abuse or serious neglect at the hands of others; and/or
- does not have a legally-appointed substitute decision maker[1]; or
- has a substitute decision maker, but there is evidence to substantiate that the SDM has not been acting in the best interests of the client.

If the client goes to court under a *Section 9* of the *Act*, he or she will have a hearing to determine if he or she meets the criteria of an adult in need of protection and if these criteria are met, services are ordered for the client;

3. *Section 10*- If the adult is considered to be living at extremely high risk and meets the criteria of an adult in need of protection; the Adult Protection worker removes the client and subsequently applies to the court to provide the justification for removing the person to a place of safety. The court decides if the client meets the criteria of an adult in need of protection. If the client does not meet the criteria of an adult in need of protection, Adult Protection is ordered to return the client to his or her premises. If the client is determined to be in need of protection, the court will then decide if he or she will be referred for services under *Section 9(3)* of the *Adult Protection Act*.

If an adult in need of protection is either referred for services under a *Section 7*, or services are court ordered for him or her under a *Section 9*; he or she will receive priority access to services according to the relevant program policies.

It is important to note that if an Adult Protection worker *does not* conclude that an Adult Protection client is an adult in need of protection, he or she may still refer the client for services. However, the client *will not receive a priority* of service; his or her status will be subject to the policies and procedures of the service provider.

The Adult Protection Care Plan will include the following:

- A summary of the adult's protective needs;
- A summary of the services that will meet the protective needs of the client;
- A statement summarizing the expected outcome of the Adult Protection intervention;
- The tasks involved in the intervention process, time frames and those responsible for the completion of the tasks;
- The follow up plan to ensure the services are meeting the adult's protective needs;
- Any changes or revisions to the care plan.

[1] This would most likely happen in the event that there is significant family discord that prevents an SDM from being appointed or if the Office of the Public Trustee is not able to accept the referral to make health care decisions on behalf of the Adult Protection client.

The following factors should be considered in the development of a care plan:

- Have all the least intrusive options been considered for the client?
- Has the client been informed about all the service options in a manner the client would understand?
- Is the client able to demonstrate that he/she understands and appreciates how the specific services will impact his/her situation, i.e. is he/she able to give informed consent for a referral for services?
- Does the client have previously expressed wishes?
- Are the client's strengths and abilities reflected in the care plan?
- Does the client have an appropriate substitute decision maker?
- Has the substitute decision maker been informed of the care plan?
- Has the substitute decision maker been acting in the best interests of the client?
- Is there relevant information that would need to be shared with the service provider?

Adult Protection workers must consult with their supervisors for *Section 9* or *10* interventions.

Policy: 6.2 *Section 7*: Referral for Services

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

6.2.1 PURPOSE

Section 7 of the *Adult Protection Act* states:

Assistance by Minister

7 *Where, after an assessment, the Minister is satisfied that a person is an adult in need of protection, the Minister shall assist the person, if the person is willing to accept the assistance, in obtaining services which will enhance the ability of the person to care and fend adequately for himself or will protect the person from abuse or neglect. R.S., c. 2, s. 7.*

There are three important assertions made by the *Act*:

1. A *Section 7* or referral for services is only to be considered *after a client has been determined to meet the criteria of an adult in need of protection*.

   The purpose of a *Section 7* is to allow Adult Protection to work with the client and his or her substitute decision maker to access services on a priority basis without a court order. This allows for a less intrusive intervention than taking the client to court, which could be disruptive and in some cases, a traumatic experience.

2. Adult Protection workers acting on behalf of the Minister are legislated to be able to determine if a client meets the criteria of an adult in need of protection. Adult Protection workers 'must be satisfied that a person is in need of protection' before referring for services. They are only able to reach this conclusion after conducting the Adult Protection assessment;

3. A client must be willing to receive the services; no one can be forced under a *Section 7* to submit to receiving services, even if they do not have the mental capacity to protect themselves from significant risk. This can only be achieved with a court order under a *Section 9* of the *Adult Protection Act*.

The Departments of Health and Wellness and Community Services recognize that adults in need of protection are living at the highest level of risk in our communities, and need to be given priority status for services to mitigate that risk. Therefore, policies for Continuing Care (in home care and long term care) and for the Services for Persons with Disabilities support adults in need of protection receiving priority status for services based on the Adult Protection worker's assessment of the client.

For adults in need of protection who are mentally incapacitated and require a substitute decision maker to consent for a referral for services on their behalf, the following statute applies under *Section 14* of the *Personal Directives Act*:

14 (1) Subject to the Hospitals Act, the Involuntary Psychiatric Treatment Act, clause 5(2)(c) and subsection 22(2), where a person who lacks capacity to make decisions regarding health care or a decision to accept an offer of placement in a continuing-care home or regarding home-care services has not made a personal directive authorizing a delegate or setting out instructions or wishes regarding

(a) health care;

(b) a decision to accept an offer of placement in a continuing-care home; or

(c) home-care services,

and does not have a guardian with authority to make such decisions, health-care decisions, a decision to accept an offer of placement in a continuing-care home and home-care services decisions may be made on behalf of the person by

(d) the nearest relative who has capacity and is willing to make the decision; or

(e) where there is no nearest relative who has capacity and is willing to make the decision, the Public Trustee.

(2) A nearest relative shall not exercise the authority given by subsection (1) unless the nearest relative

(a) excepting a spouse, has been in personal contact with the person over the preceding twelve-month period or has been granted a court order to shorten or waive the twelve-month period;

(b) is willing to assume the responsibility for making the decision;

(c) knows of no person of a higher rank in priority who is able and willing to make the decision; and

(d) makes a statement in writing certifying the relationship to the person and the facts and beliefs set out in clauses (a) to (c).

It is important to note that Adult Protection workers are only seeking the substitute decision maker's consent for *a referral* for services on behalf of the adult in need of protection.

6.2.2 POLICY

In order for an adult in need of protection to meet the criteria of a *Section 7*, referral for services, he or she must:

1. Have the mental capacity to consent for services; or
2. Have a legally authorized substitute decision maker who is able and willing to consent for a referral for services on the adult's behalf and acting in the best interests of the client.

Once the Adult Protection worker determines that the client is able to consent for a referral for services or there is a legally authorized substitute decision maker (a guardian or a delegate or a statutory decision maker under the *Personal Directives Act*) who is able and willing to consent on behalf of the client, the worker must ensure that the client or the substitute decision maker fills out the appropriate forms (Policies 6.14.1 or 2).

If the substitute decision maker is the Public Trustee, the Adult Protection worker must fill out the *Request for Decision-Health Care Public Trustee* form (Policy 6.14.3) and send a *Form 1: Assessment of Capacity to Make Decisions about a Personal Care Matter* [1] (Policy 6.14.4) to the client's physician. The worker must send the completed Form 1 along with the Request for Decision- Health Care Form to the Public Trustee.

All referrals for service must be the least intrusive option for the client and made in the client's best interests. The client and his or her substitute decision maker must be informed at each stage of the intervention and must be consulted in the development of the care plan.

The Adult Protection worker must inform the service provider of any relevant information gathered during the assessment which would directly impact the service provider's ability to properly care for the client.

The worker must also inform the substitute decision maker that he or she must make arrangements for the transportation of the client to the placement facility (if appropriate) and that the client and/or the substitute decision maker are responsible for paying for that transportation.

Under the following circumstances, a *Section 7* or referral for services would not be considered an appropriate intervention and a court order must be applied for:

1. If the client is consistently refusing to receive home care services or to go to placement (if mentally incapacitated);
2. The client is experiencing serious harm due to abuse or serious neglect at the hands of others;

[1] Found in the *Personal Directives Act Regulations*, http://www.gov.ns.ca/just/regulations/regs/pdpersdir.htm

3. There is significant family discord that prevents a substitute decision maker from being appointed;
4. There is evidence to suggest that the substitute decision maker has not been acting in the best interests of the client and there is not another substitute decision maker who is willing and able to act.

It is important to note that if an Adult Protection client consistently refuses services, for example, he or she consistently refuses to be transported to placement or consistently refuses access to home care workers, the Adult Protection worker must move forward with a *Section 9* or *10* as appropriate.

6.2.3 PROCEDURES

If the client has the mental capacity to protect him/herself from risk, but *does not have the physical capacity* to protect him/herself, the Adult Protection worker must:

- Inform the client of the results of the assessment and relevant services;
- Ask the client if he/she is willing to consent to services.

If the adult in need of protection *is willing to consent* for a referral for services, the Adult Protection worker must:

- refer to the appropriate service;
- document the care and follow-up plan; and
- close the file once it has been established that the client's protective needs have been met.

If the adult in need of protection *is not willing to consent for a referral for services*, the Adult Protection worker must:

- provide the client with relevant service information and leaves his/her contact information;
- document the services recommended and that the client is unwilling to accept services on the client's file;
- close the file.

If the client *does not have the mental capacity* to protect him/herself but has a legally authorized substitute decision maker the Adult Protection worker must:

- Inform the client and the substitute decision maker of the results of the assessment and relevant service options;
- Identify if the substitute decision maker is able and willing to consent for a referral for services for the client:

- If the substitute decision maker is either not willing or able, the client does not meet the criteria for a *Section 7* and a *Section 9* must be considered;
- If the substitute decision maker is able and willing, the Adult Protection worker refers the client to the appropriate service(s) that will meet the client's protective needs.

If the adult in need of protection has been referred for services under a Section 7; the Adult Protection worker must follow up with the client to establish if the adult's protective needs have been met.

If the client's protective needs have been met, the Adult Protection worker must:

- inform the client and substitute decision maker (if appropriate) that the file will be closed;
- document the updated information on the client and that the protective needs of the client have been met on the client's file;
- close the file.

If the protective needs of the client have not been met, the Adult Protection worker must:

- revise the care and follow up plans as appropriate;
- inform the client and substitute decision maker (as appropriate) of the changes and recommendations;
- inform the Adult Protection supervisor of the changes to the client's file and any concerns; and
- document all updated information, care plans and follow up plans in the client's file.

Policy: 6.3 Assessing Informed Consent for a Referral for Services

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

6.3 PURPOSE

The process of assessing informed consent includes informing the client of the nature of the recommended services, the potential risks and benefits of the services[1] to the client, (i.e. how the services will mitigate the risks that have been identified for the client in the Adult Protection Risk and Capacity Assessment) and the assessment process that the client will have to go through in order to access those services.

At the Care Planning stage of intervention, a client must have the mental capacity to give informed consent him or herself or have a legally authorized substitute decision maker to provide informed consent for a referral for services under a *Section 7.*

6.3.1 POLICY

In order to determine if a client meets the criteria for a *Section 7*, Adult Protection workers must first determine if adults in need of protection have the mental capacity to give informed consent for a referral for services before identifying if the client has a legally authorized substitute decision maker[2].

To determine whether the client can give informed consent for services, the Adult Protection worker presents the service options in plain language to the client.

The worker then asks a series of open-ended questions to establish if:

- *The client can demonstrate that he or she has a basic understanding of the service itself.* For example, if the suggested service was to go into long term care, the client would have to demonstrate that he or she understood that the services provided to him or her would be in a facility; that his or her health care needs would be taken care of and that he or she would be responsible to pay for all or part of his or her residential costs. *The client would be able to reframe this information to the Adult Protection worker in his or her own words.*

- *The client can articulate how accepting this service or not accepting the service would impact his or her life.* Using the example of referring the client to long term

[1] As retrieved from http://psychology.about.com/od/iindex/g/def_informedcon.htm, November 23, 2009.
[2] Note: It will only be in extremely rare situations that a client will not have the mental capacity to protect him/herself from risk but will have the capacity to consent for a referral for services.

care, the client would have to understand that he or she would be moving out of his or her current residence and would move to the long term care facility. He or she would have to understand that he or she may be placed in the first available bed in the province, so he or she may be living away from his or her family for an extended amount of time. The client would also be able to articulate how accepting (or not accepting the service) may affect his or her caregivers or family members. Finally, the client would be able to articulate how moving into long term care would impact his or her situation of risk.

- *The client can understand and appreciate the assessment process that he or she must go through in order to access the services.* The client must be able to articulate, in his or her own words that he/she understands that the assessment means that a Care Coordinator will be visiting him/her to ask a series of questions about his/her medical conditions and how he/she is coping in his/her current physical environment.

Policy: 6.4 Determining the Appropriate Substitute Decision Maker

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

6.4 PURPOSE

The *Incompetent Persons Act* and the *Personal Directives Act* (repeals the *Medical Consent Act*) provide the parameters for Adult Protection workers to decide who would make an appropriate substitute decision maker for adults in need of protection who do not have the mental capacity to consent for a referral for services.

The *Incompetent Persons Act* allows for individuals to apply for guardianship of adults who do not have the mental capacity to be able to make personal care and estate decisions for themselves. If an individual is granted guardianship of another adult, he or she is entirely responsible for that person; he or she makes all of the personal and financial decisions for that person.

Application for and powers of guardian
3 (1) The relatives or friends of any incompetent person, or the social services committee of the social services district of which the incompetent person is an inhabitant, may apply to the court to have a guardian appointed for the incompetent person.
(2) Notice of the application shall be given to the incompetent person if at large, or if the incompetent person is under restraint, to those having charge of him, of the time and place appointed for hearing the application, not less than fourteen days before the time so appointed.
(3) If, after a full hearing, it appears to the court that the person in question is incapable of taking care of himself, the court shall appoint a guardian of his person and estate with the powers and duties hereinafter specified.
(4) Every guardian so appointed shall have the care and custody of the incompetent person and the management of the incompetent person's estate until legally discharged. R.S., c. 218, s. 3; 2007, c. 17, s. 11.

In the *Personal Directives Act*, there are two ways in which an adult may make decisions for an individual who does not have mental capacity:

- To be appointed as a delegate for specific decisions by the individual in a personal directive before the adult loses his or her mental capacity to make those decisions independently;
- To be determined to be a statutory decision maker if the individual has not appointed a delegate to make decisions concerning:
    a. health care;
    b. a decision to accept an offer of placement in a continuing-care home; or

c. home-care services.

The *Personal Directive Act* states:

2 (e) "delegate" means a person authorized under a personal directive to make, on the maker's behalf, decisions concerning the maker's personal care;

(j) "nearest relative" means, with respect to any person, the relative of that person first listed in the following subclauses:
(i) spouse,
(ii) child,
(iii) parent,
(iv) person standing in loco parentis,
(v) sibling,
(vi) grandparent,
(vii) grandchild,
(viii) aunt or uncle,
(ix) niece or nephew,
(x) other relative,
who, except in the case of a minor spouse, is of the age of majority;

(n) "statutory decision-maker" means a nearest relative or the Public Trustee authorized under Section 14.

3 (1) A person with capacity may make a personal directive

(a) setting out instructions or an expression of the maker's values, beliefs and wishes about future personal-care decisions to be made on his or her behalf; and

(b) authorizing one or more persons who, except in the case of a minor spouse, is or are of the age of majority to act as delegate to make, on the maker's behalf, decisions concerning the maker's personal care.

(2) A personal directive must be in writing, be dated and be signed by the maker or, where the maker is unable to sign, by a person who is not a delegate or the spouse of the delegate on behalf of the maker at the maker's direction and in the maker's presence, and in the presence of a witness who must also sign.

14 (1) Subject to the Hospitals Act, the Involuntary Psychiatric Treatment Act, clause 5(2)(c) and subsection 22(2), where a person who lacks capacity to make decisions regarding health care or a decision to accept an offer of placement in a continuing-care home or regarding home-care services has not made a personal directive authorizing a delegate or setting out instructions or wishes regarding

(a) health care;
(b) a decision to accept an offer of placement in a continuing-care home; or
(c) home-care services,

and does not have a guardian with authority to make such decisions, health-care decisions, ***a decision to accept an offer of placement in a continuing-care home and home-care services decisions may be made on behalf of the person by***
(d) the nearest relative who has capacity and is willing to make the decision; or
(e) where there is no nearest relative who has capacity and is willing to make the decision, the Public Trustee.

15 (1) Subject to the Hospitals Act and the Involuntary Psychiatric Treatment Act, all decisions made by a delegate must be made in accordance with subsection (2).

(2) A nearest relative shall not exercise the authority given by subsection (1) unless the nearest relative
(a) excepting a spouse, has been in personal contact with the person over the preceding twelve-month period or has been granted a court order to shorten or waive the twelve-month period;
(b) is willing to assume the responsibility for making the decision;
(c) knows of no person of a higher rank in priority who is able and willing to make the decision; and
(d) makes a statement in writing certifying the relationship to the person and the facts and beliefs set out in clauses (a) to (c).[1]

6.4.1 POLICY

The Adult Protection worker must ascertain if an adult in need of protection has a written personal directive *and* has named a delegate to make decisions related to home care and/or placement in a Continuing Care home[2].

If no guardianship order or directive exists or if the adult did not name a delegate for decision making related to home care or residential care services, the Adult Protection worker must identify the most appropriate statutory decision maker based on the hierarchy in the *Personal Directives Act*.

The Adult Protection worker must approach the statutory decision maker who is:

- the age of majority (or is a minor spouse);
- has the mental capacity to make decisions on behalf of the adult in need of protection;
- has had contact with the person named above within the preceding 12 months;
- is willing to act; and
- comes first on the following list of nearest relatives:
    i. Spouse
    ii. Child

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[1] *Sections 2,3, 14, 15* of the *Personal Directives Act* as retrieved from http://www.gov.ns.ca/legislature/legc/bills/60th_2nd/3rd_read/b163.htm

[2] 'Continuing Care Home' is defined in the *Personal Directives Act* in *Section 2 (c);* " "continuing-care home" means any facility licensed under the *Homes for Special Care Act*, any facility for which a resident may be approved for admission by the Department of Health or the Department of Community Services and any facility prescribed by the regulations".

iii. Parent
iv. Person standing in loco parentis
v. Sibling
vi. Grandparent
vii. Grandchildren
viii. Aunt or Uncle
ix. Niece or Nephew
x. Other Relative
xi. Public Trustee

Once the Adult Protection worker has established who he or she will be working with to make care plan decisions for the adult in need of protection; the worker must have the substitute decision maker fill out the form in Policy 6.14.3.

This form must be attached to the client's file and to any referrals made to Continuing Care and/or the Department of Community Services or any other appropriate services.

If the Adult Protection worker has any concerns about the choice of the substitute decision maker or if he or she believes that the substitute decision maker may not be making decisions in the client's best interests, the worker must consult with his or her supervisor.

Adult Protection workers must place copies of guardianship orders, personal directives or medical consent proxies on the client's hardcopy file as evidence that the substitute decision maker is a valid decision maker for the client.

Policy: 6.5 Court Applications

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Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

6.5 PURPOSE

Under the *Adult Protection Act*, court applications are sought for *Sections 9* and *10* if an adult in need of protection does not meet the criteria for a *Section 7* or a direct referral for services. Court applications are considered the most intrusive interventions.

A *Section 9* is applied for when the adult in need of protection does not have the mental capacity to understand and appreciate the level of risk that he or she is living in *and* if the adult does not have a legally authorized substitute decision maker who is able and willing to make decisions in the client's best interests or if the case is complex in nature, such as in the case of abuse and/or serious neglect and requires a judge to determine if the adult is, in fact, in need of protection.

A *Section 9* may also be applied for if a protective intervention order is required to set conditions for a potential abuser's access to the adult in need of protection.

A *Section 10* allows for the immediate removal of a client who is reasonably and probably in need of protection and is living at extremely high risk. If, at the *Section 10* hearing, the client is found by the court to be in need of protection, a court order under *Section 9 (3)* for the Minister of Health and Wellness to provide services for the adult is made.

Under both sections of the *Adult Protection Act*, there are notice requirements given.

For a *Section 9*, the client, the person having 'control or custody' of the client and the person against whom a protective intervention order is sought are given ten business days' notice. The day notice is served is not counted, nor is the day of the court appearance[1] and weekends or holidays.

For a *Section 10*, the Minister will apply for a court order within five business days of the client being removed; notice will be given to the client and the person having 'custody and control' of the client. The five business day notice period starts the day after the removal and includes the day of the hearing[2].

[1] According to the Blois, Nickerson and Bryson Adult Protection Act Report distributed to Adult Protection in 1999.
[2] Ibid.

The *Adult Protection Act* states:

9 (1) *Where on the basis of an assessment made pursuant to this Act the Minister is satisfied that there are reasonable and probable grounds to believe a person is an adult in need of protection, he may apply to a court for an order declaring the person to be an adult in need of protection and, where applicable, a protective intervention order.*

Notice
(2) *The Minister shall give at least ten days notice of the application in the prescribed form to the person in respect of whom the application is made or some person having custody or control of that person and, where applicable, the person against whom a protective intervention order may be made.*

Order of court
(3) *Where the court finds, upon the hearing of the application, that a person is an adult in need of protection and either*
(a) is not mentally competent to decide whether or not to accept the assistance of the Minister; or
(b) is refusing the assistance by reason of duress,
the court shall so declare and may, where it appears to the court to be in the best interest of that person,
(c) make an order authorizing the Minister to provide the adult with services, including placement in a facility approved by the Minister, which will enhance the ability of the adult to care and fend adequately for himself or which will protect the adult from abuse or neglect;
(d) make a protective intervention order directed to any person who, in the opinion of the court, is a source of danger to the adult in need of protection

> *(i) requiring that person to leave the premises where the adult in need of protection resides unless that person is the owner or lessee of the premises,*
> *(ii) prohibiting or limiting that person from contact or association with the adult in need of protection,*
> *(iii) requiring that person to pay maintenance for the adult in need of protection in the same manner and to the same extent as that person could be required to pay pursuant to the Family Maintenance Act.*

Removal for protection
10 (1) *Where on the basis of an assessment made pursuant to this Act the Minister is satisfied that there are reasonable and probable grounds to believe that*
(a) the life of a person is in danger;
(b) the person is an adult in need of protection; and
(c) the person is not mentally competent to decide whether or not to accept the assistance of the Minister or is refusing the assistance by reason of duress,
the Minister may authorize the immediate removal of the person to such place as the Minister considers fit and proper for the protection of the person and the preservation of his life, and a person so authorized may take reasonable measures to remove the person whose life is in danger.

Application for court order
(2) *Within five days after a person is removed pursuant to subsection (1), the Minister shall apply to the court for an order declaring that the person is an adult in need of protection unless the person is sooner returned.*

Notice
(3) *Prior to the hearing of an application pursuant to subsection (2), the Minister shall give notice of the application in the prescribed form to the person in respect of whom the application is made or some person having custody or control of that person.*

Hearings by court
(4) *The court shall proceed forthwith to hear the application of the Minister.*

Powers of court
(5) *Upon the completion of the hearing, the court may*
(a) dismiss the application and direct the return of the person removed; or
(b) make an order in accordance with subsection (3) of Section 9[3]*.*

6.5.1 POLICY

Adult Protection workers must apply to the court under a *Section 9* or *10* only as a last resort after all other interventions have been explored and deemed to not be in the client's best interests.

Workers must consult with legal counsel to apply for a *Section 9* if they find, after a full assessment that a client reasonably and probably meets the criteria of an adult in need of protection and that adult is living at a *high level of risk* (refer to Policy 8.2). This level of risk would constitute that a reasonable adult would conclude that the life of an adult in need of protection has the potential to end in the near future if Adult Protection does not intervene.

The criteria for an application under a *Section 9*:

- The client does not have the mental capacity to understand and appreciate the level of risk in which he or she is living; *and*
- The client is consistently refusing to receive home care services or to be transported to placement; and/or
- The client is experiencing serious harm due to abuse or serious neglect at the hands of others; and/or
- There is significant family discord that prevents a substitute decision maker from being appointed; and/or
- There is evidence to suggest that the substitute decision maker has not been acting in the best interests of the client and there is not another substitute decision maker who is willing and able to act.

Workers must apply for a *Section 10* if he or she believes that there are reasonable and probable grounds that the client meets the criteria of an adult in need of protection and a reasonable adult would conclude that his or her life will most likely cease within *48*

[3] *Sections 9 and 10 of the Adult Protection Act*

hours[4] if Adult Protection does not intervene. This would mean that the adult is living at *extremely high risk* (refer to Policy 8.2).

Adult Protection workers must consult with their supervisor concerning any applications under a *Section 9* or *10.*

The workers must inform legal counsel of the application for a *Section 9* or *10* and must provide him or her with copies of the following:

- The completed Adult Protection Risk and Capacity Assessment;
- Any additional assessments from health professionals (if relevant);
- The running notes with dates, direct quotes, etc.;
- The completed Medical Observation form (if relevant);
- The proposed care and follow up plans; and
- Any additional evidence (e.g. letters) that may be relevant to the court application.

Additionally, the Adult Protection workers must mention if there is a collateral or referral source who wishes to remain anonymous. Legal counsel can block out the name of this source on the assessment and comment sheets if deemed appropriate.

Adult Protection workers must inform the client and his or her guardian or substitute decision maker (if appropriate) of the following:

- The results of the assessment;
- The rationale for proceeding for a court application;
- Relevant information about the court process; and
- The content of the care and follow up plans.

Adult Protection workers must contact the appropriate service providers in anticipation of the court orders being granted to provide specific information and recommendations for the care and follow up plans for the court, the client and the client's substitute decision maker (if appropriate). The workers must also provide the service agencies with information collected during the assessment that may be relevant to any service needs or challenges of the adult in need of protection.

If, during the court hearing, the care plan is adapted, the Adult Protection worker must change the care and follow up plans as required and document in the client's file. The worker must also inform the client and guardian or substitute decision maker as appropriate of the updates to the care plan.

[4] This timeframe is meant as a guideline to help the Adult Protection worker quantify what is meant by 'imminent' danger.

Adult Protection workers must ensure that notice is provided to the client and his or her guardian or substitute decision maker of any variations, renewals or terminations to the court order.

6.5.2 PROCEDURES

SECTION 9

1. Determine if the client meets the criteria for a *Section 9:*
    - If no, does the client meet the criteria for *Section 10*? Go to *Section 10 Process*;
    - If yes, continue with the *Section 9 Process,* consult with supervisor and consult with legal counsel to make an application to court.
2. Client meets the criteria of a *Section 9* under the *Adult Protection Act:*
    - The Adult Protection worker sends to legal counsel:
        - the completed *Adult Protection Risk and Capacity Assessment*;
        - the recommended care plan and follow up plan, with details of how the recommended services would meet the adult's protective needs.
    - Legal counsel prepares the court application and affidavit;
    - The Adult Protection worker informs the client, appropriate family members and appropriate health care professionals of:
        - the results of the Adult Protection Risk and Capacity Assessment*;*
        - the rationale for proceeding with a *Section 9;*
        - relevant information about the court and placement process;
        - the content of the Care Plan recommendations;
        - the follow up plan.
    - The Adult Protection worker makes a referral to an appropriate care agency and provides the agency with relevant information which will assist them with the care of the adult in need of protection;
    - The worker assesses if a referral to the Office of the Public Trustee is needed for the management of the client's estate. If so, he or she requests that legal counsel include Section 9(4), a request that the court inform the Public Trustee, in the court application;
    - The Adult Protection worker responds to the direction by the court; and adapts the care plan if it has been recommended.

SECTION 10

1. Adult Protection worker consults with supervisor;

2. Worker assesses whether police, ambulance, Continuing Care placement and other service providers are needed in the intervention;
3. Worker determines if the client appears to be in need of medical attention:
    - If the client *does appear to need medical attention*; the worker arranges for the client to go to hospital for a medical assessment.
    - If the client *does not appear to need medical attention,* the worker:
        - refers the client to the appropriate placement staff (DOHW / DCS) for placement in first available bed;
        - arranges for transport to the placement facility; if the bed is not immediately available, worker arranges for the client to be taken to the local Emergency Department.
4. Worker assesses if a *Section 13* is required; refers to the Office of the Public Trustee;
5. Adult Protection worker informs the client, service providers and substitute decision maker (if appropriate) of:
    - the results of the risk assessment;
    - the rationale for proceeding with a *Section 10*;
    - relevant information about the court and placement process;
    - the content of the care plan recommendations; and
    - the follow up plan.
6. The Adult Protection worker sends the following to legal counsel:
        - the completed Adult Protection Risk and Capacity Assessment;
        - the recommended care plan and follow up plan, with details of how the recommended services would meet the adult's protective needs.
7. Legal counsel prepares the court application and affidavit;
8. Worker responds to the direction by the court; and adapts care plan if it has been recommended.

Policy: 6.6 The Transportation and Removal of an Adult Protection Client

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Signature: ***Original signed by Kevin McNamara***	

6.6 PURPOSE

In Adult Protection, a client may be either transported directly under a *Section 7* or *9* of the *Adult Protection Act* or removed to a place of safety and then transported to a placement in residential care under a *Section 10*.

A *Section 10*; or the removal of a client is a measure of last resort and will happen if there are reasonable and probable grounds to support that the adult is in need of protection *and* he or she is living at an extremely high level of risk which requires him or her to be immediately removed from his or her premises.

Transportation of a client may be arranged by Adult Protection as long as the adult meets the criteria of an adult in need of protection and requires an intervention under a *Section 7* or a *Section 9* of the *Act*.

Pre-placement planning is required in order to make the transition for the client as safe and comfortable as possible. The following are considerations when a client is removed from his or her premises:

- If the client requires a medical assessment;
- The transportation requirements of the client;
- Securing the property of the client.

The *Adult Protection Act* states:

Assistance by Minister
7 *Where, after an assessment, the Minister is satisfied that a person is an adult in need of protection, the Minister shall assist the person, if the person is willing to accept the assistance, in obtaining services which will enhance the ability of the person to care and fend adequately for himself or will protect the person from abuse or neglect. R.S., c. 2, s. 7.*

Order of court
9 (3) *Where the court finds, upon the hearing of the application, that a person is an adult in need of protection and either*
(a) is not mentally competent to decide whether or not to accept the assistance of the Minister; or
(b) is refusing the assistance by reason of duress,
the court shall so declare and may, where it appears to the court to be in the best interest of that person,

(c) make an order authorizing the Minister to provide the adult with services, including placement in a facility approved by the Minister, which will enhance the ability of the adult to care and fend adequately for himself or which will protect the adult from abuse or neglect.

Removal for protection
10 (1) *Where on the basis of an assessment made pursuant to this Act the Minister is satisfied that there are reasonable and probable grounds to believe that*
(a) the life of a person is in danger;
(b) the person is an adult in need of protection; and
(c) the person is not mentally competent to decide whether or not to accept the assistance of the Minister or is refusing the assistance by reason of duress,
the Minister may authorize the immediate removal of the person to such place as the Minister considers fit and proper for the protection of the person and the preservation of his life, and a person so authorized may take reasonable measures to remove the person whose life is in danger.

Public Trustee informed of removal of adult

13 (1) *Where an adult is removed from the premises where he resides to another place pursuant to this Act and it appears to the Minister that there is an immediate danger of loss of, or damage to, any property of his by reason of his temporary or permanent inability to deal with the property, and that no other suitable arrangements have been made or are being made for the purpose, the Minister shall inform the Public Trustee[1].*

6.6.1 POLICY

Adult Protection workers are only to consider placement as an option for a client if all other intervention measures have been exhausted. The worker must consider the client's best interests and the least intrusive option when exploring any care planning placement options.

The worker must ensure that the client and his or her legally authorized substitute decision maker are informed of all of the steps of the process involved with removing and transporting the client.

PRE- PLACEMENT

The Adult Protection worker must do the following to prepare for the placement and transportation of an adult in need of protection under a *Section 7* or *9* and a removal of a client under a *Section 10*:

- If the client is *not* under a court order, the worker must contact the legally authorized substitute decision maker to obtain consent for a referral for placement and to ensure that the substitute decision maker or an appointed family member is present for the transportation of the adult in need of protection;
- Check to see if the client is a current client of Continuing Care or the Department of Community Services;

[1] *Section 13, Adult Protection Act*

- Check with family members to see if the client has a personal directive and what his or her wishes would most likely be for placement. The worker must inform the client and family members of the *First Available Bed* policy;
- Consult with the Adult Protection supervisor;
- Contact relevant service providers to participate in the removal and/or transportation of the client; this may be another Adult Protection worker, Continuing Care or Department of Community Service personnel, EHS, police, RCMP and other health personnel as appropriate. The worker will work with the relevant service providers to create a removal and/or transportation plan including clarifying roles and responsibilities of the Adult Protection worker, family members and the service providers;
- Contact family members as appropriate to participate in the removal and to provide support and/or transportation for the client;
- Inform the client, substitute decision makers, powers of attorney and/or the Public Trustee (as appropriate) that the client or the client's estate will be charged by EHS for transportation to a placement if the client is subject to *Section 7* of the *Adult Protection Act*;
- Make a referral to Continuing Care or the Department of Community Services-Services for Persons with Disabilities Program for an assessment if the client is not currently involved with those services. The worker provides all information from the assessment which would be considered relevant to the client's service needs or challenges;
- Fill out the Placement Referral form, (once the client has been accepted by Continuing Care or Department of Community Services), send the referral to the Placement Coordinator and advise him or her of any information concerning the client that is relevant for care level assessment and planning;
- Ensure the Medical Status Form is obtained for the Placement Coordinator;
- Refer to the Public Trustee under a *Section 13* if the client's property needs to be secured and there is no other person able and willing to secure it for the client. Fill out the Public Trustee referral forms (refer to Policy 2.10 and Policy 6.17.5);
- Ensure all legal documents are prepared and available for the removal process:
    - Copy of *Section 9* Order (copy for home/hospital, police & EHS)
    - *Section 10* Forms signed, witnessed (copy for home/hospital, police and EHS)
    - Copy of *Section 15* for police
- Advise the placement facility of any relevant information concerning the Adult Protection client that could impact the Adult Protection client's care or provide any challenges in providing care to the client;

- If the client needs to be removed and is unable to be placed in a facility, the Adult Protection worker will direct that the client is brought to the emergency room of the nearest hospital and will inform hospital personnel of the incoming client.

TRANSPORTATION TO PLACEMENT

Adult Protection workers must not transport Adult Protection clients.

If there are no evident safety concerns *and* the client is agreeable to placement, appropriate family members may transport the client to the placement facility. The Adult Protection worker must advise the family member to contact 911 and to phone the worker directly if there are any concerns while transporting the client. The worker will provide the family member with his or her cell phone number for this purpose.

Adult Protection workers are not to physically restrain or remove clients from their premises.

EHS must be contacted to transport the client for all *Section 10* removals.

Adult Protection workers must be visibly present to the client for all *Section 9 removals to* placement unless it is determined that the Adult Protection worker's visibility would unnecessarily agitate the client. If it is determined that the Adult Protection worker's visible presence would not be in the client's best interests, the Adult Protection Worker will attempt to remain out of the client's line of sight, but will remain physically present at the client's premises until the removal has been completed and the client is en route to the placement facility.

Adult Protection workers must be visibly present for all *Section 10* removals for placement.

Adult Protection workers do not have to be present for *Section 7* removals unless the following occurs:

- The substitute decision maker or hospital staff requests the presence of Adult Protection for this purpose;
- The client's case is complex and the worker has concerns about the transportation of the client;
- There is an issue with the client consistently refusing to be transported;
- The Adult Protection worker is already at the client's residence when the decision is made to place the client and transportation is imminent;
- The substitute decision maker is not able to be present for the transportation of the client from his or her home.

Role of the Police and RCMP

If the client is determined to be non-compliant or physically aggressive either before or during the removal, the Adult Protection worker must contact the police or RCMP to remove and transport the client. It is important to note that only the police and RCMP have the legal ability to restrain the client if required for his or her safety.

If the Adult Protection worker has any concerns about family members, persons with 'care and control' over the client, and/or individuals who have been served with protective intervention orders interfering with the removal of the client, the worker must contact the police or the RCMP to be present during the removal.

If the Adult Protection worker has any concerns during the police intervention that the client may be subject to undue risk because of the actions undertaken during the intervention, the worker must communicate his or her concerns to either the responding officer or the officer in charge. The worker must document those concerns and the response of the police officer(s) in the client's file and report them to the Adult Protection supervisor.

Role of EHS Personnel

If there are no compliance or physical aggression issues, but there are concerns for the client's safety, the Adult Protection worker must contact EHS to ensure that the client is transported safely to the placement facility.

The Adult Protection worker must ensure that EHS personnel assist the client to the ambulance via a stretcher or by other means as determined necessary and that the client is safely secured.

If there are concerns with any actions of EHS personnel during the removal of the client, the Adult Protection worker must document his or her specific concerns and report those concerns to the Adult Protection supervisor.

Sharing of Information

The Adult Protection worker must share any information collected during the assessment with the police, RCMP or EHS personnel that he or she considers relevant to the care or safety needs of the client in the removal process.

The worker must provide all relevant documentation to EHS, the police and the RCMP; such as court orders and *Section 10* or *15* forms.

Securing the Premises

The Adult Protection worker must contact family members to gather essential personal items for the client to take with him or her to the placement facility. If there are no appropriate family members able and willing to do so for the client, the worker will gather

essential personal items to send with the client to placement. The worker must document any items of value found on the client's person in the client's file and will share this information with the placement facility.

If, during the process of removing a client from his or her premises, an Adult Protection worker gains knowledge that there are valuables in the home, such as money or jewellery, he or she will contact the police to secure those items for the client. The worker will document the valuable items and both the worker and the police officer will sign the documented list of items or envelope in which the valuables are contained. This must be noted in the client's file.

The Adult Protection worker will ensure that the client's home is locked if it is going to be left unattended and there are no appropriate family members that can secure the property. The worker will make a referral to the Public Trustee under a *Section 13* if there are no other options for securing the property. If the Public Trustee is not able to accept the referral, the Adult Protection worker will inform his or her supervisor.

If the Adult Protection client has any pets that are not being taken care of by family and/or friends of the client, the Adult Protection worker must contact the SPCA to pick up the animals.

PLACEMENT OF THE CLIENT

Adult Protection workers must meet the client at the placement facility for some *Section 7* transports (see 'Transportation to Placement' above), all *Section 9* or *10* removals, unless it is determined (in consultation with the service provider) that this would unnecessarily agitate the client, or if the client is arriving directly from hospital.

If the Adult Protection worker concludes that his or her presence at the placement facility would not be in the client's best interests or if he or she is not needed because the client is being transported directly from hospital, the worker must inform the Adult Protection supervisor and the appropriate personnel at the placement facility.

If an Adult Protection client is being taken to a hospital for a medical assessment, the Adult Protection worker must meet the client at the Emergency Room. Upon arrival, the Adult Protection worker must inform emergency department personnel (i.e. a charge nurse or social worker) of any relevant information concerning the Adult Protection client's care and the rationale for requesting a medical assessment. If possible, the Adult Protection worker should phone the Emergency Room personnel in advance of the arrival of the client.

If there is a request from the placement home or the hospital for attendant care for the client, the Adult Protection worker must consult with an Adult Protection supervisor for approval for the funding (refer to Policy 3.4).

The Adult Protection worker shall ensure that the placement facility receives a copy of the court order.

The Adult Protection worker must follow up with the placement home within *three working days* of the Adult Protection client's placement, by phone or in person, to learn how the Adult Protection client is adjusting to the placement.

Policy: 6.7 *Section 13*: Referral to the Public Trustee

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

6.7.1 POLICY

Adult Protection workers must fill out the *Section 13* form for referrals to the Public Trustee if a client is removed under a *Section 10* and he or she does not have any family members, including a guardian or enduring power of attorney, who are able to secure the property for the client. See also Policy 2.10 and Policy 6.14.5.

Policy: 6.8 Criteria for Referrals to the Services with Disabilities Program

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

6.8 BACKGROUND

The Services for Persons with Disabilities Program, Department of Community Services serves children, youth and adults with intellectual disabilities, long term mental illness and physical disabilities, with a range of community based, residential and vocational/day programs. The programs are voluntary and designed to support people at various stages of development and independence.

Adult Protection clients are given priority access to this program.

6.8.1 POLICY

Adult Protection workers must refer adults in need of protection to the Department of Community Services, Services for Persons with Disabilities if the above services may meet his or her protective needs.

If an Adult Protection client does not meet the criteria of an adult in need of protection but is in need of services, the Adult Protection worker may refer the adult and his substitute decision maker (if appropriate) to the Services for Persons with Disabilities for an assessment. However, the Adult Protection worker must inform the client and the substitute decision maker (if appropriate) that the client would not be eligible for a priority placement.

Once a conclusion has been made that the client meets the criteria of an adult in need of protection after the Adult Protection Risk and Capacity Assessment and a care plan has been recommended under a *Section 7, 9* or *a Section 10*; the Adult Protection worker must begin the referral process as prescribed by the Department of Community Services.

The Adult Protection worker must call the Intake line and make a referral to the program. The Adult Protection worker must advise the Intake worker of any information concerning the client that is relevant for care level assessment and planning.

1. This information was adapted from www.gov.ns.ca/coms/disabilities/index.html (as retrieved on October 26, 2009); Services for Persons with Disabilities Program Support Fact Sheets and the Services for Persons with Disabilities Program Presentation of Mike Kilpatrick & Peter Lerette, Sept. 16, 2009.

Policy: 6.9 Criteria for Referrals to Continuing Care

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

6.9 BACKGROUND

Continuing Care programs administered through the District Health Authorities serve people who need ongoing personal and/or health care outside a traditional hospital setting. These services are available to clients on a short-term or long-term basis and are available through home care or long term care.

Adults in need of protection are given priority access to these programs. If an adult in need of protection is placed, he or she may be placed in the first available bed within approximately 100kms of his or her preferred community which suits his or her care needs and takes into account his or her cultural background.

6.9.1 POLICY

Adult Protection workers must refer adults in need of protection to Continuing Care if those services will meet his or her protective needs.

If an Adult Protection client does not meet the criteria of an adult in need of protection but is in need of services, the Adult Protection worker may refer the adult and his legally appointed substitute decision maker (if appropriate) to Continuing Care for an assessment. However, the Adult Protection worker must inform the client and the substitute decision maker (if appropriate) that the client would not be eligible for a priority placement.

Once a conclusion has been made that the client meets the criteria of an adult in need of protection after the Adult Protection Risk and Capacity Assessment and a care plan has been recommended under a *Section 7, 9* or *a Section 10*; the Adult Protection worker must begin the referral process.

The Adult Protection worker will fill out the Placement Referral form, send the referral to the Placement Coordinator and advise him or her of any information concerning the client that is relevant for care level assessment and planning.

1. As retrieved from www.gov.ns.ca/health/ccs on October 26, 2009. Also adapted from the Department of Health, Continuing Care Branch Adult Protection Orientation Training Manual pg. 1-7.

Policy: 6.10 Protective Intervention Orders

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

6.10 PROTECTIVE INTERVENTION ORDERS

Protective Intervention Orders are orders of the court that allow for the removal, prohibit contact and/or limit contact of individuals who are a danger to adults in need of protection.

The *Adult Protection Act* states:

Application for court order
9 (1) *Where on the basis of an assessment made pursuant to this Act the Minister is satisfied that there are reasonable and probable grounds to believe a person is an adult in need of protection, he may apply to a court for an order declaring the person to be an adult in need of protection and, where applicable, a protective intervention order.*
Notice
(2) *The Minister shall give at least ten days notice of the application in the prescribed form to the person in respect of whom the application is made or some person having custody or control of that person and, where applicable, the person against whom a protective intervention order may be made.*
Order of court
(3) *Where the court finds, upon the hearing of the application, that a person is an adult in need of protection and either*
(a) is not mentally competent to decide whether or not to accept the assistance of the Minister; or
(b) is refusing the assistance by reason of duress,
the court shall so declare and may, where it appears to the court to be in the best interest of that person,
(c) make an order authorizing the Minister to provide the adult with services, including placement in a facility approved by the Minister, which will enhance the ability of the adult to care and fend adequately for himself or which will protect the adult from abuse or neglect;
(d) make a protective intervention order directed to any person who, in the opinion of the court, is a source of danger to the adult in need of protection

> ***(i) requiring that person to leave the premises where the adult in need of protection resides unless that person is the owner or lessee of the premises,***
> ***(ii) prohibiting or limiting that person from contact or association with the adult in need of protection,***
> ***(iii) requiring that person to pay maintenance for the adult in need of protection in the same manner and to the same extent as that person could be required to pay pursuant to the Family Maintenance Act[1].***

[1] *Section 9, Adult Protection Act*

6.10.1 POLICY

If, during the assessment, the Adult Protection worker finds that there is evidence to support reasonable and probable grounds that an individual is putting the adult in need of protection at significant risk, the worker must apply to the court for a protective intervention order under *Section 9* of the *Adult Protection Act, if all less intrusive options have been explored and have been unsuccessful*.

In order for the individual to be considered a 'danger' to the client, the following criteria must be met:

- The Adult Protection client must meet the criteria of being an adult in need of protection;
- There must be evidence to support that the individual is significantly contributing to the significant risk to the adult in need of protection;
- The Adult Protection worker must reasonably believe that the individual will continue to be a significant danger to the adult in need of protection without court-ordered intervention;
- Other less intrusive measures have been explored and determined to be unsuccessful by the Adult Protection worker in mitigating the risk to the client.

If the Adult Protection worker concludes that a protective intervention order is needed, he or she will inform the Adult Protection supervisor. If the Adult Protection supervisor is in agreement, the worker will inform legal counsel. The Adult Protection worker will recommend conditions of access and any other conditions that will mitigate the danger to the client to legal counsel to include in the care plan as part of the court application.

Once a protective intervention order has been granted, the Adult Protection worker must inform the relevant service provider, family member and/or caregiver caring for the client of the protective intervention order and must give the facility or service provider a copy of the court order for the client's file. The worker must instruct the service provider, family member and/or caregiver caring for the client to contact Adult Protection immediately if there are any suspected violations of the court order.

The Adult Protection worker must also inform the individual who is subject to the protective intervention order that the court order has been granted and the role of Adult Protection in the matter; if the individual was not able to attend the court hearing. Individuals may be informed in person or over the telephone. Workers must use their discretion as to whether or not to involve the police when the individual is informed.

If there has been an allegation that a protective intervention order has been violated, Adult Protection workers must investigate. The investigation may involve visiting the adult in need of protection, the service provider, the family member and/or caregiver or the individual who is subject to the protective intervention order, if deemed appropriate.

The Adult Protection worker must consult with his or her supervisor in order to formulate a plan for the investigation. The worker must use his or her discretion as to whether or not to involve the police in the investigation and/or visit with the individual who has been subject to the protective intervention order.

If a violation of a protective intervention order is substantiated in the investigation, the Adult Protection worker must inform his or her supervisor and legal counsel in order to bring the matter back to the court.

Policy: 6.11 Preparing for Court

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

6.11 PURPOSE

There are four different court applications which can be made under the *Adult Protection Act*:

1. *Section 8*- Order for Entry. This order allows Adult Protection workers, police and other health professionals to gain entry into a client's home to conduct an assessment. Refer to Policy 5.6.
2. *Section 9*- declaring that an adult is in need of protection and if found in need of protection, authorizing the Minister to refer the adult to services which will meet his or her protection needs. Refer to Policies 5.1, 5.12 and 6.1.
3. *Section 9*- requesting a protective intervention order against an individual who is a source of danger or significant risk to the adult in need of protection. This order limits the access that the individual has with the adult in need of protection. Refer to Policy 6.10.
4. *Section 10*- removing an adult in need of protection from his or her premises if he or she is in danger or living at extremely high risk. Refer to Policies 5.1, 5.12, 6.1 and 6.6.

Adult Protection workers provide the evidence through the Adult Protection Risk and Capacity Assessment, running case notes and other relevant professional assessments to legal counsel, who constructs the affidavit. The affidavit contains information of the Adult Protection worker's personal knowledge of the case, *and* any other information which is relevant to the case *if* the affidavit states where the information came from and that the worker believes it to be true[1].

In the court hearing, the court:

- Ensures that all relevant parties have been served in keeping with the notice provisions of the *Adult Protection Act*;
- Appoints a guardian ad litem;
- Examines and hears the evidence presented to establish whether or not the adult is in need of protection, whether or not he or she needs to be removed from his or her premises and if a protective intervention is warranted;
- Makes a decision on the application before the court;

[1] Adapted from the Blois, Nickerson and Bryson Adult Protection Act Report, distributed to Adult Protection in 1999.

- Reviews and approves the care plan.

If the proceeding is contested, it will most likely mean that more court time is necessary, in order for both sides to prepare potentially more evidence and bringing forward more witnesses. If this is the case, the full hearing is scheduled for a later date.

The *Adult Protection Act* also speaks to terminations and variations of court orders:

Section 9:
Expiry of order
(5) *An order made pursuant to subsection (3) expires six months after it is made.*
Variation or renewal of order
(6) A*n application to vary, renew or terminate an order made pursuant to subsection (3) may be made by the Minister, the adult in need of protection or an interested person on his behalf, or a person named in a protective intervention order upon notice of at least ten days to the parties affected which notice may not be given in respect of a protective intervention order earlier than three months after the date of the order.*
Factor considered by court
(7) *An order made pursuant to subsection (3) may be varied, renewed or terminated by the court where the court is satisfied that it is in the best interests of the adult in need of protection.*
Expiry of renewal order
(8) *A renewal order expires six months after it is made.*
Balance of probabilities
(9) *The determination of all matters by a court pursuant to this Section shall be made on the balance of probabilities*[2]*.*

An affidavit reviewing the circumstances of the adult is required from the Adult Protection worker if the Minister wishes to renew, vary or terminate the court order. The affidavit is submitted to the court and a court order is issued.

6.11.1 POLICY

Adult Protection workers must give all evidence collected during the Adult Protection investigation to legal counsel. This includes the Adult Protection Risk and Capacity Assessment, the running case notes and any additional relevant professional assessments.

It must be stated clearly in all of these documents where the evidence came from, source(s), with first and last names, his or her position (if relevant) and his or her relationship to the client as well as whether or not the evidence is first, second or third-hand knowledge. Direct quotes and dates of conversations, visits, etc. are to be documented in the running case notes.

Adult Protection workers must advise legal counsel if there are any sources in the investigation who wish to remain anonymous.

[2] *Section 9, Adult Protection Act*

The Adult Protection worker is expected to be in court for the hearing with legal counsel for the other side to be able to cross-examine the worker on his or her affidavit.

Adult Protection workers must follow up with the adult in need of protection to establish whether or not his or her protective needs are being met according to Policy 6.12.

If the worker concludes that a court order needs to be varied, terminated or renewed, he or she must consult with his or her Adult Protection supervisor and legal counsel and must submit the updated information to legal counsel to develop an affidavit to submit to the court.

The Adult Protection worker must ensure that the court order is enforced if it has been varied or renewed.

6.11.2 GUIDELINES

A Good Court Witness:

- Is familiar with the content of the affidavit, but not to the extent that it is memorized. Adult Protection workers should review the file the day before the court hearing;
- Sticks to the facts and gives information in a straightforward manner;
- Waits to be asked an entire question when being cross-examined;
- Asks for clarification if there is any confusion about the questions being asked;
- Waits if there is an objection from either side; once the difficulty is settled, the worker can proceed with answering the question;
- Does not challenge the lawyer asking the questions or the judge; this is the responsibility of legal counsel.

Policy: 6.12 Developing the Follow Up Plan

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

6.12 PURPOSE

Adults in need of protection are only in need of protection for a certain amount of time. Once their protection needs have been met, they are no longer considered to be 'in need of protection'. Protection needs of clients are resolved with services and/or interventions from family members and/or caregivers.

The purpose of a follow up plan is to establish how Adult Protection will know when an adult is no longer in need of protection. The follow up plan also makes it clear to all parties involved with an Adult Protection intervention (including the client, the substitute decision maker and/or caregiver and the court) how the client's situation will be monitored and evaluated to determine how and if his or her protective needs are being met.

6.12.1 POLICY

Adult Protection workers must develop the follow up plan in conjunction with the Adult Protection Care Plan.

The follow up plan outlines the following:

- The protection needs of the client and how they are being met by the care plan;
- The timelines for the review of the care plan;
- How the Adult Protection worker plans to follow up with the client, including:
    - Who will be contacted in the follow up- the client, medical practitioners, relevant health professionals, the service provider(s), family members or other relevant personal contacts of the client;
    - How the sources will be contacted- some sources may require a visit while some sources may need to be contacted via telephone or email;
- If known, what the next steps will be if the protective needs of the client are not being met;
- If relevant, any challenges that the Adult Protection worker may have with monitoring the client's protective needs.

If, during the course of monitoring the follow up plan, an Adult Protection worker determines that the client's protective needs are not being met, he or she may do the following (depending on the situation of the client):

- Consult with the service provider and/or family member and/or caregiver to establish how circumstances need to change in order to meet the client's protective needs;
- Change the care plan to reflect the agreed upon changes in service and/or requirements of the family member and/or caregiver;
- In consultation with his or her Adult Protection supervisor and legal counsel, submit evidence to be developed into an affidavit to be submitted to court for a variation or renewal of an order.

Adult Protection workers must meet the following timelines:

1. ***Section 10*** **Removal of a Client**- Adult Protection workers must follow up with the service provider ***within three days*** of a client being removed to ensure that the client is safe;
2. ***Section 9*** **Authorized Services from the Minister-**
    - Adult Protection workers must follow up with the service provider ***within one month*** of a client being placed to ensure that the client is settling into the service and the service provider is aware of the conditions related to the adult protection order;
    - Adult Protection workers ***must visit the client within three months*** of his or her admittance to the service facility to establish if there has been progress toward the client's protective needs are being met;
    - If the client's protective needs have been met, the worker shall consult with the Adult Protection supervisor and legal counsel to submit an application to terminate the order ***within two weeks of concluding that the adult is no longer in need of protection***;
    - If the client's protective needs are not being met, the worker shall work with the service provider and the client to change the care plan to ensure that the client's protective needs will be met and ***shall submit an application to vary the court order within one month of concluding that the adult is still in need of protection*** if needed;
    - If the client's protective needs have not been entirely met, but there has been progress toward his or her needs being met; the worker shall update the file and will ***reassess the client within three months***. If at that time, the client's protective needs have been met, the worker shall apply to terminate the order. If the client's needs have not been met, the worker shall apply to renew the order. ***Applications for renewals or terminations must be made within six months of the date of the original Adult Protection order.***
3. ***Section 7*** **Referral for Services (Home care or placement)-**

- Adult Protection workers must follow up with the service provider, client and substitute decision maker (if appropriate) ***within one month*** of a client receiving service to ensure that the service is being provided successfully;
- Adult Protection workers must contact the client and substitute decision maker (if appropriate) ***within three months*** of the service being provided to establish whether the client's protective needs are being met;
- If the client's protective needs have been met, **the worker must close the file *within one week*** of concluding that the adult is no longer in need of protection;
- If the client's protective needs are not being met, the worker must work with the service provider and the client to change the care plan to ensure that the client's protective needs will be met or must submit an application for a court order if needed. ***The care plan must be revised or an application for a Section 9 court order must be made within two weeks of establishing that the client's protective needs are not being met. If a Section 10 is warranted, the Adult Protection worker must begin the Section 10 process immediately.***

If at any time there is information presented that a client no longer meets the criteria of being 'in need of protection' it is the Adult Protection worker's responsibility to follow up as soon as possible. For example, if a client regains his or her mental capacity to protect him or herself, he or she would no longer be 'in need of protection'.

If the client had been referred under a *Section 7* and no longer needs protection services, the Adult Protection worker must meet with the client to explain that he or she is no longer in need of protection, and that his or her file will be closed. If the client is under a court order, then the matter must be taken back to court as an application to terminate the order as soon as possible.

It is important to note that because the client has been receiving services, there will be service and care considerations for the service provider and the client that will be separate from the client's protection needs. For example, if a client regains his or her physical and mental capacity to function, he or she may need to be reassessed for his or her care requirements which may lead in a change in the client's care plan.

Policy: 6.13 Monitoring Adult Protection Clients for a *Section 9* Court Order

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

6.13 PURPOSE

Adult Protection clients who meet the criteria of a *Section 9* are living at a high level of risk (refer to Policy 8.2). This level of risk would constitute that a reasonable adult would conclude that the life of an adult in need of protection has the potential to end in the near future if Adult Protection does not intervene.

Even though these clients do not meet the criteria to qualify for immediate removal from their premises under the *Adult Protection Act*, they are living at an elevated level of risk which may deteriorate quickly. Therefore, their situation must be monitored in the interim period before the assessment is complete and the court hearing.

6.13.1 POLICY

Adult Protection workers who are assigned Adult Protection clients who meet the criteria of a *Section 9* intervention must follow up with the client and his or her caregiver (if appropriate) to inform him or her of the impending court hearing and what to expect from the process ***within three days*** *of* concluding that the adult is in need of protection. At that time, the Adult Protection worker must check in with the client and caregiver (if appropriate) about how he or she is managing with his or her protective needs.

Additionally, workers must follow up with the client and caregiver (if appropriate) again, ***within one week*** of the court hearing to ensure that the client's situation has not deteriorated substantially.

If, at any point before the court hearing, an Adult Protection worker finds that the client's situation has deteriorated substantially, he or she must consult with his or her Adult Protection supervisor to determine if a *Section 10* removal is warranted.

NOVA SCOTIA
Health and Wellness

Section 7 Adult Protection Client Consent Form

Client: _____DOB (d/y/m) _____ HCN _____

Consent to Refer for Services and to Share Information
In order to provide a fully informed referral for services, Adult Protection workers must share specific client information with a limited number of health care professionals and service providers (such as long term care administrators or home care providers) on the client's behalf. Sharing of this information will be undertaken with the highest respect for the privacy of the client.

I _____ of _____ in the Province of Nova Scotia, Canada; provide consent to persons in the employ of Adult Protection, Nova Scotia Department of Health and Wellness to refer me for residential or home care services.

In order for the Adult Protection worker to refer me for services, I understand that he or she will share relevant personal health information as required from the Adult Protection Risk and Capacity Assessment, the Medical Observation Form and/or other information gathered during the Adult Protection investigation, such as relevant assessments from health professionals.

This information will only be used for the purposes of:

- Providing a comprehensive referral for the Continuing Care Program, District Health Authority, Continuing Care Department of Health and Wellness or the Services for Persons with Disabilities Program, Department of Community Services;
- Assisting the service provider to develop an appropriate care plan;
- Other_____.

I understand that I am consenting for a referral for services by Adult Protection and that will entail sharing some of my personal health information that has been collected during the Adult Protection investigation with other health professionals. I appreciate the impact that these services will have on my personal circumstances.

_____ _____
Signature Date

_____ _____
Witness Signature Date

NOVA SCOTIA
Health and Wellness

Section 7 Adult Protection Substitute Decision Maker Declaration and Consent Form

Client: _____DOB (d/y/m) _____ HCN _____

Consent to Refer for Services and to Share Information
In order to provide a fully informed referral for services, Adult Protection workers must share specific client information with a limited number of health care professionals and service providers (such as long term care administrators or home care providers) on the client's behalf. Sharing of this information will be undertaken with the highest respect for the privacy of the client.

I _____ of _____ in the Province of Nova Scotia, Canada; provide consent to persons in the employ of Adult Protection, Nova Scotia Department of Health and Wellness to refer _____ (name of client) for residential or home care services.

In order for the Adult Protection worker to refer _____ (name of client) for services, I understand that he or she will share relevant personal health information as required from the Adult Protection Risk and Capacity Assessment, the Medical Observation Form and/or other information gathered during the Adult Protection investigation, such as relevant assessments from health professionals.

This information will only be used for the purposes of:

- Providing a comprehensive referral to the Continuing Care Program, District Health Authority, Continuing Care Department of Health and Wellness or the Services for Persons with Disabilities Program, Department of Community Services;
- Assisting the service provider to develop an appropriate care plan;
- Other_____.

I understand that I am consenting on behalf of _____ (name of client) for a referral for services by Adult Protection and that will entail sharing some of his or her personal health information that has been collected during the Adult Protection investigation with other health professionals. I appreciate the impact that these services will have on his or her personal circumstances.

I am declaring myself to be the official substitute decision maker according to law or Nova Scotia Department of Health and Wellness policy for the above noted person.

_____ _____
Signature Date

_____ _____
Witness Signature Date

NOVA SCOTIA
Health and Wellness

Adult Protection
Removal for Protection - *Section 10 (1)*

***Section 10(1)* of the *Adult Protection Act* states:**

AWhere on the basis of an assessment made pursuant to this Act the Minister is satisfied that there are reasonable and probable grounds to believe that

(a) the life of the person is in danger

(b) the person is an adult in need of protection;

(c) ***the person is not mentally competent to decide whether or not to accept the assistance of the Minister***

the Minister may authorize the ***immediate removal*** *of the person to such a place as the Minister considers fit and proper for the protection of the person and the preservation of his life, and a person so authorized may take reasonable measures to remove the person whose life is in danger.@ 1985,c.2s.10*

I, _____ of _____, in the Province of Nova Scotia, on the basis of conducting an assessment made pursuant to the *Adult Protection Act*, *Section 6*, have reasonable and probable grounds to believe that _____(name of client)**;**

(a) **is living at an extremely high level of risk;**

(b) is an adult in need of protection; and

(c) does not have the mental capacity to consent for services which will mitigate his/her protection needs

I hereby authorize _____ of _____ to immediately remove _____ from the premises located at _____, or as soon as practicable, and ensure she/he is transported to _____, a fit and proper place for her/his protection, and a person so authorized may take reasonable measures to remove a person whose life is in danger, pursuant to ***Section 10(1) of the Adult Protection Act***, Nova Scotia.

Dated at _____, this _____ day of _____, 200_

_____ Witness

_____
Adult Protection Worker
Person Authorized Pursuant to *Section 4* of the *Adult Protection Act*

NOVA SCOTIA
Health and Wellness

[S. 13(1) Notice, Adult Protection Act]

PROVINCE OF NOVA SCOTIA

DEPARTMENT OF HEALTH

IN THE MATTER OF: **Section 13 of the Adult Protection Act;**

- and

IN THE MATTER OF: **, an adult in need of protection**

THE PUBLIC TRUSTEE is hereby informed that the above-named adult has been removed from the premises where he/she resides to another place pursuant to the Adult Protection Act and it appears to the Minister that there is immediate danger of loss of or damage to property of the said adult by reason of his/her temporary or permanent inability to deal with the property and that no other suitable arrangements have been made or are being made for the purpose.

DATED: at , Nova Scotia.

PERSON AUTHORIZED PURSUANT TO
SECTION 4* OF THE *ADULT PROTECTION ACT

To: THE PUBLIC TRUSTEE
5670 Spring Garden Road, Suite 405
PO Box 685
Halifax, NS B3J 2T3

Form 1: Assessment of Capacity to make Decisions about a Personal Care Matter
(assessing capacity for Sections 10, 11 and 13 of the *Personal Directives Act*)

I, _____ (*full name and professional designation*), a physician, assessed _____ (*full name of person being assessed*) of _____ (*address of person*) on _____/_____/_____ (*dd/mm/yyyy*) at _____ a.m./p.m. at _____ (*location of assessment*).

If the assessment is of a person delegated under a personal directive to make personal-care decisions for another, then skip items 1 and 2.

1) Personal directive made:
Check one:

❑ I am aware that _____ *(full name of person being assessed)* has made a personal directive.

❑ I do not know if _____ *(full name of person being assessed)* has made a personal directive.

2) Consultation under personal directive:
Subsection 10(1) of the *Personal Directives Act* states that a personal directive may name a person – by name, title, or position – with whom the person making an assessment of capacity of the maker is to consult in making the assessment.

Check one:

❑ I consulted with _____ *(full name of person named in personal directive)* in making this assessment of capacity.

❑ I have made reasonable efforts to consult with _____ *(full name of person named in personal directive)* in making this assessment of capacity.

❑I am not aware that anyone has been named for consultation.

3) Capacity explained:

"Capacity" is defined in the *Personal Directives Act* to mean the ability to understand information that is relevant to the making of a personal-care decision and the ability to appreciate the reasonably foreseeable consequences of a decision or lack of a decision.

Before conducting the assessment of capacity, I explained to _____ (*full name of person being assessed*) the purpose of the assessment, the significance and effect of a finding of capacity or incapacity, and their right to refuse to be assessed.

4) Physician's opinion

It is my opinion that _____ (*full name of person being assessed*) has the capacity to make a personal-care decision regarding the following:

Personal Care Decision	Capacity	
• Health care _____	Yes ❑	No ❑
• Placement in a continuing-care home	Yes ❑	No ❑
• Provision of home-care services	Yes ❑	No ❑
• Leaving the Province	Yes ❑	No ❑
• Other personal care	Yes ❑	No ❑

("health care" is defined for the *Personal Directives Act* to mean any examination, procedure, service or treatment for an individual that is done for a therapeutic, preventative, palliative, diagnostic or other health-related purpose, and includes a course of health care or a care plan)

("personal care" is defined in the *Personal Directives Act* to include, but is not limited to, health care, nutrition, hydration, shelter, residence, clothing, hygiene, safety, comfort, recreation, social activities, support services and any other personal matter that is prescribed by the regulations)

5) Supporting information:

The following information supports my opinion:

A) Observations from my assessment of the person being assessed:

_____

_____

_____

_____

_____

_____

B) Information from other sources (please specify sources of information):

_____

_____

_____

_____

_____

_____

Is there any additional supporting information or reports attached? Yes ❑

No ❑

_____ _____

(date of signature) (signature)

_____

(printed name)

_____

Notes:

1) This form must be completed by a physician. (s. 5 of *Personal Directives Regulations*)
2) This form is to be used

   A) if any of the following request an assessment of the capacity of a person who has made a personal directive or a person on whose behalf personal care decisions will be made:
      - the person who made the personal directive or on whose behalf personal care decisions will be made
      - a delegate named in the personal directive
      - a statutory decision-maker
      - the nearest relative (as defined in the *Personal Directive Regulations*)
      - a health-care provider
      - a person in charge of the home-care services provider or continuing-care home where the person who made the personal directive or on whose behalf the personal care decisions will be made resides.

      (s. 10(2) and (3) of *Personal Directives Act*)

   B) for the assessment of capacity of a person who has made a personal directive after they have been prevented from leaving the Province (s. 11 of *Personal Directives Act*)

   C) for the assessment of capacity of a person delegated under a personal directive to make personal-care decisions (s. 13 of *Personal Directives Act*)

3) An assessment made under s. 11 of the Act after a person has been prevented from leaving the Province must be completed as soon as practicable. (s. 11(2) of *Personal Directives Act*)

Policy: 7.1 Adult Protection Documentation

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

7.1 PURPOSE

It is essential in Adult Protection cases to maintain detailed reports of all aspects of the Adult Protection investigation. Properly detailed documentation provides an account of the actions of Adult Protection as well as the evidence which substantiates whether or not a client meets the criteria of an adult in need of protection. A good documentation process provides protection for clients, Adult Protection staff and the Minister of Health and Wellness.

Things to keep in mind when writing on a client's file:

- Although the files of Adult Protection clients are private and confidential, it is important to note that the client can request his or her file through the *Freedom of Information and Protection of Privacy Act (FOIPOP)* at any time;
- Other parties may request information that does not qualify as the client's 'personal information' under *FOIPOP*;
- A client's file is submitted to the court if an application is put forward under a *Section 8, 9* or *10* of the *Adult Protection Act*.

It is therefore of crucial importance that client files and all records are legible, comprehensive and clear.

7.1.1 POLICY

All Adult Protection clients must have both an electronic file and a hardcopy file.

All hardcopy documents such as assessments from other health professionals, powers of attorney, personal directives and all handwritten Adult Protection forms must be scanned into the computer and put on the client's electronic file.

The following pieces of documentation must be kept on the client's hard copy and electronic file:

- The initial referral information;
- The Intake and Inquiry forms;
- The Pre-Assessment Risk Screen;

- The Adult Protection Risk and Capacity Assessment;
- The Care Plan;
- Any assessments by other professionals which are relevant to determining whether an adult is in need of protection;
- The Medical Observation Form (if relevant);
- Any forms required for the Adult Protection intervention, for example, the *Section 10, 13* or *15* forms;
- Any written correspondence with an Adult Protection client and/or his or her alleged abuser(s), caregiver(s) or substitute decision maker(s), service providers, lawyers, and/or the client's enduring power of attorney;
- Affidavit(s);
- Any court orders;
- The Public Trustee referral package;
- Any additional referral forms (e.g. Geriatric Assessment Referral form, Seniors' Mental Health form)
- Any documentation for the client's enduring power of attorney, Guardianship court orders or any personal directives;
- The Follow Up Plan; and
- Case recordings (running notes).

Adult Protection workers are never to rewrite the records of a client. If a mistake in documentation is made, the original record should remain intact. A separate paragraph must be written documenting both the mistake and the correction. This paragraph must be signed by the Adult Protection worker.

Adult Protection workers are required to adhere to all national and provincial government legislation and Department of Health and Wellness policies in relation to documentation and breaches of privacy (Refer to Appendix E and the Nova Scotia Department of Health and Wellness website).

Policy: 7.2 Recording of Decisions on the Adult Protection Case File

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

7.2.1 POLICY

Any decisions made in relation to Adult Protection clients *must* be recorded on their files.

If a decision is made regarding an Adult Protection client in the absence of the assigned Adult Protection worker; the decision and the rationale for the decision must be sent to the assigned Adult Protection worker in an email as soon as possible.

If the Adult Protection worker is informed verbally initially, he or she must record all of the information given to him or her in the client's running case notes; including who made the decision, when the decision was made and the rationale for the decision. When the worker receives the email, he or she must add the documentation to the client's file.

Policy: 7.3 Case Recordings

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

7.3 POLICY

Each separate case recording must identify the date of the recording and the Adult Protection worker's signature at the end of the entry.

If an Adult Protection worker has taken over a client's file temporarily for another worker, for example; if he or she is covering for a colleague who is on vacation, the worker shall add to the notes on the client's file by beginning a new paragraph and writing his or her name at the end of the notation.

The case recordings (running notes) must include the following:

- Any responses to the initial referral information; including the rationale for proceeding from Intake to the Inquiry or Assessment stages of intervention;
- Any issues or concerns in relation to the reliability of the referral source;
- Answers and responses to the questions asked of health professionals and community sources at the Intake and Inquiry stages of intervention;
- Any concerns related to the Pre-Assessment Risk Screen;
- Any relevant information which is not recorded in the Intake and Inquiry forms and/or the Adult Protection Risk and Capacity assessment;
- Any questions and responses which were asked as part of the investigation but are not in the Adult Protection Risk and Capacity assessment;
- Direct quotes from the referral and/or collateral sources that are relevant to the Adult Protection investigation;
- Dates, times, purpose and places (if relevant) of visits or calls to the client, alleged abuser(s), caregiver(s), substitute decision maker(s), service providers, medical practitioner(s), the referral source and/or collateral sources, *include full names of anyone contacted during the Adult Protection investigation and their relationship to the client*;
- Dates, times, purpose and places (if relevant) of *unsuccessful* attempts at contact with clients, alleged abuser(s), other service providers, caregiver(s), substitute decision maker(s), medical practitioner(s), the referral source and/or collateral sources (this includes missed or cancelled appointments), *include full names of anyone contacted during the Adult Protection investigation and their relationship to the client*;

- Notes from case conferences and/or joint investigations concerning the client;
- Any transfer of information between Adult Protection offices in relation to a client;
- Dates, times and results of any supervisor or peer consultations in relation to the client's case;
- The dates, times, contact information and rationale for any releases of information about the client;
- A brief closing summary noting the rationale for the case closure.

Case recordings must identify all persons initially by their full name and then by their last name and title (e.g. Mrs. Brown), unless there is more than one person listed in the recording with the same last name and of the same sex.

Case recordings must be written in the following manner:

- Objectively, factually and without judgment;
- Accurately, including the 'who, what, where, when, why and how' information;
- Specifically, only including information that is relevant to the Adult Protection investigation;
- Clearly, without any jargon or abbreviations;
- In the first person;
- In chronological order with the date clearly written at the beginning of each entry.

Policy: 7.4 Transcription of Handwritten Notes to the Client's File

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

7.4.1 POLICY

Adult Protection workers must complete short-hand working notes within *24 hours* of interviewing or talking with a client, referral or collateral source.

Adult Protection workers must transcribe all handwritten notes onto the computer file as soon as possible and *no later than three working days* following the contact.

Once the handwritten notes are transcribed and form part of the client's permanent record, then the electronic notes should be retained and saved with the proper security protection. Once this has taken place, the handwritten notes must be properly destroyed according to the Records Management Policy, Department of Health and Wellness.

Policy: 7.5 Sharing and Protecting Client Information

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

7.5 PURPOSE

In Nova Scotia, the information gathered in an Adult Protection investigation is considered personal health information. Most jurisdictions in Canada have legislation guiding the practices of gathering, sharing, distributing and storing personal health information.

Personal health information is intended to improve the flow of information to support client care and is referred to as the 'circle of care'. The collectors and keepers of a client's personal health information must strike a balance between protecting the client's information and sharing enough information in order to appropriately deliver and improve health care services.[1]

There is federal and provincial legislation that guides how a person's personal health information is shared. Federally, there is the *Privacy Act* and the *Personal Information Protection and Electronic Documents Act*. In Nova Scotia, there are a host of laws, including the *Freedom of Information and Protection of Privacy Act*, the *Personal Information International Disclosure Protection Act* and the *Personal Health Information Act*.

The following ten 'fair information principles' are set out in the National Standard of Canada; Model Code for the Protection of Personal Information[2]:

1. Accountability- organizations must designate individuals who are responsible for the compliance of the organization with the privacy principles;
2. Identifying Purpose- before the information is collected; the purpose of the collection must be identified by the organization. At any point, the people collecting the information must be able to provide a clear rationale as to why the information is being collected;
3. Consent- the knowledge and consent of the individual are required for the collection, use or disclosure of personal information, except where inappropriate; for example, for clients who are unable to give consent due to a mental incapacity;
4. Limiting collection- the collection of information shall be limited to that which is

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[1] *Personal Health Information Legislation for Nova Scotia: Discussion Paper*, October 2008. As retrieved from http://www.gov.ns.ca/health/phia/PHIA_%20Discussion_Document.pdf on December 8, 2009.

[2] According to Schedule 1 to the *Personal Information Protection and Electronic Documents Act*, retrieved from http://www.priv.gc.ca/leg_c/p_principle_e.cfm#contenttop on December 8, 2009.

necessary for the purposes identified by the organization. Information shall be collected by fair and lawful means;

5. Limiting Use, Disclosure and Retention- personal information shall not be used for purposes other than those for which it was collected, except with the consent of the individual or as required by law. Personal information shall be retained only as long as necessary for the fulfillment of those purposes;
6. Accuracy- personal information shall be as accurate, complete and up-to-date as is necessary for the purposes for which it is to be used;
7. Safeguards- personal information shall be protected by security safeguards appropriate to the sensitivity of the information;
8. Openness- an organization shall make readily available to individuals specific information about its' policies and practices relating to the management of personal information;
9. Individual Access- upon request, an individual shall be informed of the existence, use and disclosure of his or her personal information and shall be given access to that information. There may be some exceptions to this access; such as naming people who may have provided the information to the organization about the individual;
10. Challenging Compliance- an individual shall be able to address a challenge concerning compliance with the above principles to the designated individual or individuals accountable for the organization's compliance.

All of the Adult Protection policies, tools and assessments contained in this policy manual have been written with the above principles taken into account.

7.5.1 POLICY

Adult Protection workers must be familiar with and comply with the Department of Health and Wellness policies and guidelines in relation to the verbal disclosure of information, privacy breaches, the transmission of client information and the protection of client information.

For links to those policies and guidelines refer to Appendix E of the policy manual. *It is the responsibility of the Adult Protection worker to ensure he or she is knowledgeable of all of the current policies of the Department of Health and Wellness.*

Adult Protection workers are mandated to follow the above listed principles for the collection and distribution of a client's personal information:

1. **Identifying Purpose-** Adult Protection workers must have a clear rationale as to why they need to collect any client's personal information; which is substantiated by having reasonable and probable grounds that a client meets the criteria of an adult in need of protection.

Workers must provide a clear rationale to clients and their substitute decision makers (if appropriate) as to why they are collecting information throughout an investigation and assessment.

2. **Consent-** If a client is referred for services under *Section 7* of the *Adult Protection Act*, the Adult Protection worker must have the client (if he or she has the mental capacity to do so) sign a consent form (Policy 6.14.1) to share information with the service agency in order to refer. If the client does not have the mental capacity to consent for service, but has a substitute decision maker who is willing and able to provide consent, the worker will have the substitute decision maker sign a declaration and consent form (Policy 6.14.2).

   If a client does not meet the criteria of an adult in need of protection, but still needs a referral for services, the Adult Protection worker will have the client or his or her substitute decision maker (if appropriate) sign the consent form.

3. **Limiting Collection-** Adult Protection workers will only collect the specific information needed to establish whether or not an adult meets the criteria of an adult in need of protection. The Intake and Inquiry forms and the Risk and Capacity Assessment have been developed for this purpose.

4. **Limiting Use, Disclosure and Retention-** When workers are collecting information from other health professionals, including medical practitioners, they must be clear about what information they need about the client. For example, on the Medical Observation Form cover letter, workers must indicate what *specific information* they need in relation to the client. Adult Protection workers must also be able to clearly articulate why they are requesting this information from the specific health professional.

   If health professionals or service providers request clients' information from the Adult Protection worker for the purpose of being able to accurately assess them or to provide them with the appropriate services; the worker will provide the health professional or service provider with the specific information needed for this purpose.

   Once a case has been closed, the electronic file will be moved to the agreed upon location in the shared drive. The hard copy file will be given to the administrative support person to store according to the Department of Health and Wellness Records Management Policy.

5. **Accuracy-** Client files must be accurate, kept up-to-date and as complete as possible at every stage of the Adult Protection intervention.

6. **Safeguards-** Files shall be kept in locked storage cabinets at all times. If an Adult Protection worker is working on a specific client's file, he or she is expected to put the file back in the locked storage unit as soon as he or she has finished working on the file.

7. **Openness-** Adult Protection workers will openly share Adult Protection policies in relation to sharing information. If a question or concern is raised; workers will inform their supervisor immediately.

8. **Individual Access-** If a client or his or her substitute decision maker requests information about the client's file, the Adult Protection worker will inform his or her supervisor immediately. If his or her supervisor is not available, the worker will inform the Adult Protection Provincial Coordinator. The Adult Protection worker will inform the client and the substitute decision maker (if relevant) of the process of the *FOIPOP* and will give them the supervisor and Adult Protection Provincial Coordinator's contact information.
9. **Challenging Compliance-** Adult Protection workers will identify in the case running notes all requests for information and the response from Adult Protection; including who the information went to, how it was shared, the purpose for which the information will be used and what specific information was shared.

Policy: 7.6 Sharing Client Information with MLAs and the Ombudsman

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

7.6 PURPOSE

Members of the Legislative Assembly (MLAs) and the Ombudsman have unique roles as advocates and overseers of government services for all Nova Scotians.

Individuals ask their MLAs to advocate for them if they are concerned about how they are being treated by government. The Ombudsman's office may be accessed by any individual who believes that he or she has been treated unfairly or has a complaint about a government service. Both MLAs and the Ombudsman's office may send inquiries directly to any government agency.

According to *Section 27(j)* of the *Freedom of Information and Protection of Privacy Act*, Members of the Legislative Assembly are able to receive specific information about a client if the client has requested the Member to intervene on their behalf to resolve a problem.

7.6.1 POLICY

If an Adult Protection worker receives an inquiry from an MLA or the Ombudsman's office, he or she must:

- Take steps to verify the identity of the MLA or staff of the Ombudsman's office, such as:
    - Asking the caller for his or her office number and returning the call to verify the location of the call;
    - Checking the call display monitor on the phone terminal;
    - Asking the caller for identifying information (such as the phone number of the office); or
    - Asking that the request be made in writing and faxed to Adult Protection in care of his or her Adult Protection supervisor;
- Inquire as to the purpose of the inquiry and if it is related to an active investigation;
- Inform the caller that the inquiry will be passed on to his or her supervisor and the Provincial Coordinator (and will give the caller their names and contact information);
- Inform his or her supervisor who will contact legal counsel;

- Record the date and time of all calls and the names and titles of the callers on the running notes of the client's file;
- Ensure that the information (if approved by the supervisor) is only given to the MLA directly or the MLA's Executive Assistant.

If the supervisor cannot be reached, he or she must inform the Adult Protection Provincial Coordinator. If the Provincial Coordinator cannot be reached immediately, the worker must inform the Service Delivery Coordinator.

Adult Protection workers must not verbally disclose personal information about a client to elected federal or municipal representatives, unless the representatives provide the written consent of the client.

Refer to Appendix E: Verbal Disclosure Policy link to the Department of Health and Wellness' website.

Policy: 7.7 Sharing Client Information with Substitute Decision Makers and Family Members

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

7.7 PURPOSE

If a client has a *legally authorized* substitute decision maker *and* the client does not have the mental capacity to protect him or herself from significant risk *and* is unable to consent for services; the substitute decision maker may consent for services for the Adult Protection client if he or she is able and willing to do so.

In order to make an informed decision, the substitute decision maker must have access to the client information and records collected during an Adult Protection investigation *that are relevant to making a decision in relation to consenting for the referral for services*. The substitute decision maker uses this information and makes a decision based on the client's *best interests*.

7.7.1 POLICY

If an Adult Protection worker receives a request for client information from a substitute decision maker he or she must do the following:

- Obtain proof indicating that the substitute decision maker is, in fact, legally authorized (if there is not a personal directive or guardianship order, the Adult Protection worker will have the substitute decision maker sign the 'identification' (Policy 6.14.3) and the 'consent and declaration' forms (Policy 6.14.2);
- Clarify with the substitute decision maker the specific information that is needed in order to make the decision;
- Review the client file to extract the specific information required for this purpose;
- Phone or meet with the substitute decision maker to impart the specific information;
- Record what information was shared on what date with whom for what purpose in the case notes;
- Inform his or her supervisor if there are any questions or challenges related to the request.

7.8 Sharing Client Information with Health Professionals and Service Providers

Effective date: February 8, 2011	**Version:** October 10, 2022
Approved by: Paul LaFleche, Deputy Minister, Seniors and Long Term Care	
Signature: *Original signed by Paul LaFleche, Deputy Minister, SLTC*	

7.8 PURPOSE

In an Adult Protection investigation, the Adult Protection worker may request that health professionals, including medical practitioners, assess a client to provide evidence as to whether or not he or she meets the criteria of an adult in need of protection. In order to complete these assessments, the health professionals will most likely request client information.

At the end of an Adult Protection investigation, the client may be referred for services or be subject to a court order for services. In order to provide services to the client that appropriately meet his or her needs; the service provider will require specific client information from Adult Protection.

7.8.1 POLICY

If a health professional or service provider requests a client's information from an Adult Protection worker for the purpose of being able to accurately assess or provide appropriate services to the client; the worker must provide the health professional or service provider with the *specific information* needed for this purpose.

The Adult Protection worker must:

- Check the appropriate boxes on the Medical Observation Form cover letter (for medical practitioners) and ensure that the medical practitioner receives the information that is needed for his or her assessment;
- Fill out any referral forms from the health professionals or service providers which are required for the assessment or the provision of the service;
- Inform the client and his or her substitute decision maker of the referral for the assessment or provision of services; if they have questions about the information being shared, the Adult Protection worker must provide them with information about what specific information is being shared, with whom and the purpose of sharing this information;
- Clarify with the health professional or service provider the specific information that is needed in order to assess or provide the client with services;
- Review the client file to extract the specific information required for this purpose;
- Ensure credibility of the specific information extracted from the client file as per policy section 4.4;
- Share the information with the health professional or service provider;

- Record what information was shared on what date with whom for what purpose in the case notes;
- Inform the Adult Protection supervisor if there are any questions or challenges related to the request.

The worker may provide additional information (which is not requested in the referral form) to the health professional or service provider verbally; if requested, *or* if the Adult Protection worker reasonably concludes that the information is relevant to the assessment of or provision of services to the client.

If additional information is requested by a health professional or service provider, the Adult Protection worker must have a clear rationale as to how the information provided will be used to assess or provide the client with appropriate services in order to share the client's information. This will be tracked in the client's running notes.

When it is not reasonable for the worker to confirm accuracy of collateral source information prior to sharing with health professionals or service providers due to urgent nature of a situation, the worker must state that the information has not been verified. Additionally, the worker must record what unconfirmed information was shared, on what date, with whom, for what purpose, and steps taken to verify information in the case notes.

If an Adult Protection worker has any concerns about the information which is being requested by the health professional or service provider, he or she must inform the Adult Protection supervisor *before* providing the information to the health professional or service provider.

Adult Protection workers must provide the following to the service provider (if relevant):

- Any voluntary agreements outlining limitations of access between Adult Protection and individuals who have access to the client;
- Protective intervention orders;
- Court orders.

Policy: 7.9 Sharing Client Information with the Medical Examiner

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

7.9 PURPOSE

The Office of the Chief Medical Examiner serving under the Nova Scotia Department of Justice is committed to providing investigation of all deaths due to violence, undue means, culpable negligence and unexpected/unexplained deaths throughout the province. The Office provides written documentation including cause and manner of death and make reports available to next-of-kin and appropriate agencies[1].

The Medical Examiner has the authority to investigate deaths under the *Fatality Investigations Act* (http://nslegislature.ca/legc/statutes/fatalinv.htm):

Powers of medical examiners and investigators to investigate

7 (1) A medical examiner or an investigator acting under the medical examiner's authorization may, without a warrant,

(a) enter a place where the medical examiner or the investigator believes, on reasonable grounds, that a body that is the subject of an investigation, or matters related to the body, is or has been located;

(b) take possession of anything that the medical examiner or the investigator has reasonable grounds to believe may be directly related to the death or may assist in determining the issues set out in subsection 5(1) and place anything seized into the custody of a peace officer;

(c) cordon off or secure the scene or area in which the death under investigation occurred for a period not exceeding forty-eight hours or such further period as the Chief Medical Examiner may authorize;

(d) inspect and make copies of a diagnosis, a record or information relating to a person who has received diagnostic and treatment services;

(e) with the approval of the Chief Medical Examiner, obtain the services or retain expert assistance for a part of the medical examiner's or investigator's investigation; and

(f) take photographs or inspect and make copies of documents or information in any form if the medical examiner or investigator has reasonable grounds to believe that this may assist in determining any of the issues set out in subsection 5(1).

1 The Mission statement of the Office of the Medical Examiner as retrieved from http://www.gov.ns.ca/just/CME.asp on January 21, 2011.

Therefore, if an Adult Protection client's death becomes the focus of an investigation of the Medical Examiner, Adult Protection must provide the specific information requested by the Medical Examiner or an investigator under the *Fatality Investigations Act*.

7.9.1 POLICY

If an Adult Protection worker receives an inquiry from the Office of the Medical Examiner, he or she must:

- Inform the caller that he or she will be informing her or his Adult Protection supervisor and the Provincial Coordinator (and will give the caller their names and contact information)of the inquiry;
- Inform his or her supervisor immediately, so the supervisor can review the client's file to determine if there are any concerns, liability issues, risks or policy implications that need to be addressed and so that he or she can inform legal counsel and the Provincial Coordinator and send a copy of the client's file if deemed appropriate;
- Copy the specific information that has been requested;
- Forward the information once it has been compiled to the Medical Examiner's Office as per the instructions in the request and within the timeframe as requested;
- Inform his or her supervisor if the timeframe for providing information cannot be met;
- Record the date and time of all calls and the names and titles of the callers on the running notes of the client's file.

If the supervisor cannot be reached, he or she must inform the Adult Protection Provincial Coordinator. If the Provincial Coordinator cannot be reached immediately, the worker must inform the Service Delivery Coordinator.

Policy: 7.10 Transferring Adult Protection Files

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

7.10 PURPOSE

At times it may be necessary to transfer the management of an open Adult Protection file to another Adult Protection worker in the same office or another district's office.

The following circumstances would be examples of when a case transfer would be needed:

- If the file may be perceived as a conflict of interest for the assigned Adult Protection worker;
- If the assigned Adult Protection worker is not able to meet the required response times due to workload demands (after consultation with his or supervisor);
- If the assigned Adult Protection worker will be away for an extended period of time;
- If, after the initial inquiry or assessment, it is learned that the client lives within the jurisdictional boundaries of another Adult Protection office's district;
- If the client moves to another Adult Protection office's district before the assessment with the client has occurred or been completed.

7.10.1 POLICY

Adult Protection supervisors must approve all internal and external case transfers.

If an Adult Protection worker determines that a file should be transferred, he or she must consult as soon as possible with his or her supervisor. If the supervisor then determines that the file needs to be transferred, he or she will facilitate the internal transfer or will consult as soon as possible with the supervisor in the relevant district for an external transfer.

After an Adult Protection file has been assigned at Intake, *at no time* will the file not have an assigned Adult Protection worker.

Internal Transfers

Once the Adult Protection worker receives approval from his or her supervisor, he or she documents the decision of the supervisor in the case file and sends a confirmation email to the supervisor documenting the outcome of the consultation and the rationale behind the request for the file to be transferred.

The Adult Protection supervisor shall inform the newly assigned Adult Protection worker of the file and shall request that the worker consults with the previously assigned worker as soon as possible.

The Adult Protection worker who was initially assigned to the case must advise any relevant parties (i.e. Adult Protection client, family, service provider) of the file transfer and the name and contact number of the newly assigned Adult Protection worker.

External Transfers

Once a decision has been made to transfer a client file, the newly assigned Adult Protection office shall be responsible for that client.

The supervisor in the newly assigned Adult Protection office must direct the newly assigned Adult Protection worker to consult with the previously assigned Adult Protection worker.

The previously assigned Adult Protection worker must write the outcome and rationale of the decision in a confirmation email to his or her supervisor and in the client's file. He or she must inform any relevant parties of the transfer and will give them the newly assigned Adult Protection worker's contact information. The worker must consult with the newly assigned Adult Protection worker about the client's file. All meetings and consultations must be documented in the client's file.

The worker who was originally assigned the client file must facilitate the transfer of the client's electronic and hardcopy file. Once the client's electronic and hardcopy files have been transferred, the originally assigned worker shall send a confirmation email to his or her supervisor and the supervisor and worker of the district office who now have responsibility for the client.

Policy: 7.11 Closing Adult Protection Files

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

7.11 PURPOSE

Adult Protection files may be closed at any point during an Adult Protection intervention.

7.11.1 POLICY

A file must be closed once it is concluded that a client does not meet the criteria of an adult in need of protection. This may occur during the investigation, assessment or once the client's protection needs have been mitigated.

Adult Protection workers must consult with their supervisor if:

- He or she is unsure if there are sufficient grounds to establish that a client does not meet the criteria of an adult in need of protection; or
- If the case is complex in nature.

Once an Adult Protection worker determines that there are reasonable and probable grounds that a client *does not* meet the criteria of an adult in need of protection, he or she must comply with the following:

I. Closing a File at Inquiry

The Adult Protection worker must:

- Advise any necessary parties of the closure and advise them to make another referral if there are concerns that would warrant Adult Protection involvement (i.e. Care Coordinator, service provider, physician);
- Ensure the Intake and Inquiry forms are completed, signed, dated and on the client's hardcopy file;
- Ensure all documents gathered during the Inquiry process are on the client's file;
- Forward the client's file to the Administrative Assistant to close the file on SEAscape and to store according to the Records Management Policy for the Department of Health and Wellness.

II. Closing a File at Assessment

The Adult Protection worker must:

- Ensure that the client and the substitute decision maker (if relevant) are aware that the file is being closed;
- Ensure that the client and the substitute decision maker (if relevant) are advised of any situations where Adult Protection could become involved in the future;
- Advise any necessary parties of the closure (i.e. Care Coordinator, service provider, physician);
- Ensure the Adult Protection Risk and Capacity assessment is completed, signed, dated and on the client's file;
- Ensure all case recordings are complete;
- Document the rationale for file closure in the case recordings;
- Ensure all documents are on the client's file (i.e. Risk and Capacity assessment, other assessments by health professionals);
- Forward the client's file to the Administrative Assistant to close the file on SEAscape and to store according to the Records Management Policy for the Department of Health and Wellness.

III. Closing a File after a *Section 7* Intervention

The Adult Protection worker must:

- Advise the client and substitute decision maker (if relevant) that the file is being closed;
- Advise any necessary parties of the closure (i.e. Care Coordinator, service provider);
- Ensure all case recordings are complete;
- Document the rationale for file closure in the case recordings;
- Ensure all documents are on the client's file (i.e. Risk and Capacity assessments, assessments, powers of attorney, personal directives);
- Forward the client's file to the Administrative Assistant to close the file on SEAscape and to store according to the Records Management Policy for the Department of Health and Wellness.

IV. Closing a File after a Court Ordered Intervention

The Adult Protection worker must:

- Advise the client and any family members that have been involved through the Adult Protection intervention of the closure;
- Advise the placement home of the closure and ensure the placement home receives a copy of the termination order (if available);
- If applicable, advise the Office of the Public Trustee of the closure and ensure the Public Trustee receives a copy of the termination order (if available);
- Ensure a copy of the termination order (if available) is on the client's file;
- Ensure all case recordings are complete;
- Document the rationale for the file closure in the case recordings;
- Ensure all documents are on the client's file (i.e. affidavits, assessments, personal directives, case notes);
- Forward the client's file to the Administrative Assistant to close the file on SEAscape and to store according to the Records Management Policy for the Department of Health and Wellness.

Policy: 8.1 Adult Protection Policy Tools Introduction

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

8.1 PURPOSE

This policy section contains the tools that will guide Adult Protection workers in the specific procedures of their work and the considerations that they must make throughout the Adult Protection process.

8.1.1 POLICY

Adult Protection workers must use the following tools when conducting their work:

- Adult Protection Risk Continuum (Policy 8.2)
- Adult Protection Care Planning Decision Tree (Policy 8.3)
- Adult Protection Process Maps (Policy 8.4)

Policy: 8.2 Adult Protection Risk Continuum	
Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

8.2 PURPOSE

This tool is to be used in coordination with the Adult Protection Risk and Capacity Assessment. It is a guide to assist Adult Protection workers to establish reasonable and probable grounds to move from one stage of intervention to another and to conclude that a client is an adult in need of protection.

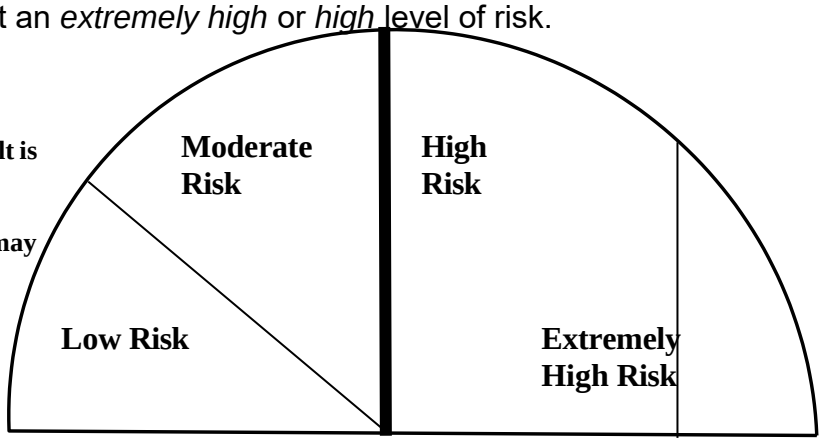
8.2.1 POLICY

Adult Protection workers must use the Adult Protection Risk Continuum[1] when assessing the level of risk in which the Adult Protection client is living.

The workers must use this tool and their professional judgment to conclude if there are reasonable and probable grounds to establish that a client meets the criteria of an adult in need of protection at the Intake and Inquiry and Assessment stages of intervention.

Adult Protection clients must be considered to be at *significant* risk in order to meet the criteria of an adult in need of protection. To move from the Intake and Inquiry stage of intervention to the Assessment stage, Adult Protection workers must establish reasonable and probable grounds that the client is living at a *moderate, high* or *extremely high* level of risk. At the Assessment stage of intervention, Adult Protection workers must establish reasonable and probable grounds that a client is living at an *extremely high* or *high* level of risk.

Client is not at significant risk: adult is not in need of protection. Adult Protection worker may refer for service if client or SDM can consent.



Client is living at significant risk: adult is in need of protection if the other criteria are met (lack of capacity, permanent, irreversible condition).

[1] The Risk Continuum for Adult Protection was informed by 'Safeguarding Adults': A National Framework of Standards for good practice http://www.haringey.gov.uk/safeguarding_adults_-_national_framework_of_standards.pdf).

and outcomes in adult protection work, Association of Directors of Social Services, 2005. pp.22 (retrieved on December 16, 2008 from

http://www.haringey.gov.uk/safeguarding_adults_-_national_framework_of_standards.pdf).

<u>Extremely High Risk</u> - The client is assessed to be at extremely high risk; there are reasonable and probable grounds to believe that the client's life is at *significant risk of being in imminent danger.*

This client meets the criteria of an adult in need of protection and would be subject to immediate removal (*Section 10*) from their environment.

One or more of the following factors would be present:

- Vital caretaking responsibilities cannot or will not be undertaken;
- Immediate medical attention is needed to sustain the life of the individual;
- Life sustaining medication is not being administered;
- The person has *no* control over aspects of his/her immediate environment that could lead to a life-threatening situation; for example, exhibiting dangerous behaviors such as wandering in a dangerous physical environment, such as busy highways, forest, etc.
- There is evidence to support that the client is experiencing serious psychological and/or physical harm from abuse and/or neglect.

<u>High Risk</u> - The client is assessed to be living at high risk; there are reasonable and probable grounds that he or she is currently *living in a potentially life-threatening situation* or *is at risk of serious harm*[2] *due to abuse or neglect.*

This client meets the criteria of an Adult Protection intervention and would be subject to a ***Section 7* or *9*** under the *Adult Protection Act*; depending on if he or she has a legally authorized substitute decision maker *or* the ability to consent for services him or herself.

One or more of the following risk factors would be present:

- Vital caretaking responsibilities will definitely be withdrawn in the near future or are unavailable;
- Life sustaining medication is not being administered appropriately and there is no ability to improve;
- The person has *little or no* control over aspects of the immediate environment that could lead to a life-threatening situation; for example, exhibiting potentially dangerous behaviors such as wandering in a physically risky environment, such as close to busy highways or heavily forested areas, or they may not be able to evacuate their residence in case of a fire or a flood;
- The majority of social support systems and relationships cannot or will not be sustained; this mostly pertains to caregiving support;

[2] The determination of ***'serious harm'*** is a matter of professional judgment and must be based on the individual's unique circumstances. It is important to note that this is essentially an ethical determination; which is why it is crucial if you have any questions or challenges with making or not making a determination of serious harm, you must consult your supervisor.

- There is an inability to carry out the primary activities of daily living;
- There is evidence to suggest that serious psychological and/or physical harm most likely will come to the person as a result of abuse or neglect.

<u>Moderate Risk</u> - The client is assessed to be living at moderate risk; there are *not* reasonable and probable grounds that he or she is currently living in a situation that is potentially life-threatening or at risk of serious harm due to abuse or neglect*. However, the client is living with risk factors that have a considerable impact on his or her level of independence and standard of living.*

This client ***does not*** meet the criteria of an adult in need of protection; he or she is living at a level of risk that ***would not*** necessitate an intervention; the risks can be mitigated through caregiving support or by the client him or herself.

Although the client does not meet the criteria for an adult in need of protection; the Adult Protection worker has a professional obligation to provide education and information to him or her and/or his or her caregiver about how they can manage their current situation of risk and what to do if the level of risk increases.

Additionally, if the client or their legally authorized substitute decision maker requests that the Adult Protection worker refers for service, the worker will make the referral. However, because the client is not considered an adult in need of protection, he or she would not have priority status on any waiting lists for service or assessments. This would be up to the discretion of the service provider.

One or more of the following factors may be present:

- There is an inability to carry out several IADLs;
- There may be risky (but not potentially life-threatening) behaviors demonstrated related to cognitive impairments, for example, general confusion or confusion about eating, taking medications, etc. *These risk factors may have a considerable impact on the client's level of independence and standard of living;*
- There may be additional functional risk factors such as continence issues, medication management issues present that are not life-threatening but *may have a considerable impact on the client's level of independence and standard of living;*
- There may be additional personal and/or household care issues, such as lack of cleanliness that are not life-threatening but *may have a considerable impact on the client's level of independence and standard of living;*
- There may be some capacity issues related to decisions regarding personal care; however, the client *does understand* the situation of risk in which he or she is currently living and/or he or she has a person who has taken supervisory responsibility for him or her and his or her decisions;

- There is evidence to suggest that there may be some emotional and/or mental abuse occurring to the client, however, he or she will not suffer serious harm as a result of this abuse and/or neglect;
- The client may have the capacity to understand and appreciate the risks associated with his/her situation of abuse and/or neglect and actively choose to stay in that situation.

***Note:** Although the client does not meet the criteria of an Adult Protection intervention; the Adult Protection worker should document in the risk summary (part of the *Adult Protection Risk and Capacity Assessment*) how the risk factors are mitigated and in what situations the client could move from a moderate risk to a high risk situation (and would, at that time, meet the criteria of an Adult Protection intervention).

Low Risk - The client is assessed to be living at low risk; he or she may have some risk factors present that are noted in the *Adult Protection Risk and Capacity Assessment*; however, those risk factors *do not* indicate a potentially life-threatening situation or a risk situation where there is a considerable impact on the client's level of independence or standard/pattern of living.

This client ***does not*** meet the criteria of an Adult Protection intervention; they are living at a level of risk that ***would not*** necessitate an intervention; the risks can be mitigated through caregiving support or by the client him or herself.

Although the client does not meet the criteria for an intervention under a ***Section 7 or 9*;** the Adult Protection worker has a professional obligation to provide education and information to him or her and/or his or her caregiver about how they can manage the current situation of risk and what to do if the level of risk increases.

Additionally, if the client or his or her legally authorized substitute decision maker requests that the Adult Protection worker refers for service, the worker will make the referral. However, because the client is not considered an adult in need of protection, they would not have priority status on any waiting lists for service or assessments. This would be up to the discretion of the service provider.

One or more of the following risk factors may be present:

- There may be an inability to carry out some personal care or domestic routines;
- There may be some risky behaviors demonstrated related to cognitive impairments, for example, general confusion or confusion about eating, taking medications, etc;
- There may be some additional functional concerns such as continence issues, medication management issues;
- There may be additional personal and/or household care issues, such as lack of cleanliness;

- There may be some capacity issues related to decisions regarding personal care; however, the client does understand the situation of risk in which he or she is currently living and/or he or she has a person who has taken supervisory responsibility for him or her and his or her decisions;
- There is evidence to suggest that there may be some emotional and/or mental abuse occurring to the client, however, he or she will not suffer serious harm as a result of this abuse and/or neglect and he or she understands and appreciates the risks associated with this abuse and/or neglect.

Extremely High Risk

It is reasonably probable that:

- The client's life is in imminent danger; or
- The client is experiencing serious psychological or physical harm due to abuse/neglect

This person is dependent on others to provide them with the necessities of life; he/she is no longer able to provide the necessities of life him/herself (due to a physical or mental incapacity).

Necessities of life include; a safe physical environment, providing life-sustaining medications and an ability to tend to activities of daily living.

Note: This category of risk differs from high risk because of the ***immediacy*** of the situation. The client is in need of additional service support to maintain his or her life or to be protected from serious harm due to abuse/neglect.

High Risk

It is reasonably probable that:

- The client is living in a life-threatening situation; *or*
- The client is at risk of serious physical or psychological harm due to abuse/neglect

This person is dependent on others to provide them with the necessities of life; they are *unable* to provide the necessities of life him/herself (due to a physical or mental incapacity). Necessities of life include; a safe physical environment, providing life-sustaining medications and an ability to tend to activities of daily living.

Note: This category of risk differs from other categories of risk because of the *level* of risk (life-threatening for self-neglect; serious harm for abuse/neglect).

It differs from extremely high risk because the situation is not quite as imminent; however, there are current *indicators* of self-neglect that demonstrate a probability that the client's life is under threat *or* he/she will suffer serious harm from abuse/neglect.

The Adult Protection worker must have a reasonable and probable belief that if the client is not protected in the near future his/her life will cease or they will suffer serious harm as a result of abuse/neglect. The client is in need of additional service support to maintain their life or to be protected from serious harm due to abuse/neglect.

Moderate Risk

It is reasonably probable that:

- The client is living in a situation where his/her independence and standard of living and/or capacity is compromised; *or*
- There is evidence to suggest that there may be some emotional and/or mental abuse occurring to the client, however, he or she will not suffer serious harm as a result of this abuse and/or neglect;
- The client has the capacity to understand and appreciate the risks associated with his/her situation of abuse and/or neglect and is actively choosing to stay in that situation.

The client has compromised mental or physical capacity; however, either he or she is not solely dependent on others to provide them with the necessities of life, *or* he or she has at least a minimal level of caregiving or service support to tend to his/her activities of daily living.

The client may have a compromised ability to tend to instrumental activities of daily living by him/herself.

Note: This level of risk indicates that the client's independence or standard of living is compromised, but not to the extent that it is life-threatening. The client's independence and standard of living will most likely benefit from additional service support.

Low Risk

It is reasonably probable that:

- The adult is living in a situation where his/her independence and standard of living and/or capacity is *somewhat* compromised; *or*
- He/she is living with a situation of abuse/neglect where he/she may or may not be at risk of emotional and/or psychological harm;
- The client has the capacity to understand and appreciate the risks associated with his/her situation of abuse and/or neglect and is actively choosing to stay in that situation.

The client may or may not have compromised mental or physical capacity; however, either he or she is not solely dependent on others to provide him/her with the necessities of life, *or* he or she has caregiving support to adequately assist him/her with his or her activities of daily living.

The client may struggle with some instrumental activities of daily living due to his or her own inabilities or insufficient caregiving support.

Note: An assessment of low risk indicates that the client is able to provide for him or herself or he or she has adequate caregiving/service support. The client's independence and standard of living may benefit from additional service support.

Policy: 8.3 Adult Protection Care Planning Decision Tree

Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

8.3 PURPOSE

The Adult Protection Care Planning Decision Tree is meant to guide Adult Protection workers through the Care Planning process.

8.3.1 POLICY

Adult Protection workers must use the attached Adult Protection Care Planning Decision Tree when making care plan decisions for Adult Protection clients.

Adult Protection Care Planning Decision Tree

Does Client Meet Adult Protection Criteria?

- □ Client living at significant (high or extremely high) risk
- □ Client unable to protect him/herself
  - □ due to physical incapacity
  - □ due to mental incapacity
- □ Client has a permanent, irreversible condition that affects capacity

Considerations:
1. Mental Capacity- Client demonstrates whether or not he or she understands and appreciates the level and significance of the risk in which he or she is living when the AP worker shares his or her assessment of different areas of risk. **Question: Does the client understand the information presented to him or her and how it can impact his or her life?**
2. Charter of Rights- a) Is there compelling evidence to demonstrate that this is an adult in need of protection? b) Have I ensured that the client's rights have been protected to the greatest extent possible? ie. procedural fairness
3. Privacy Legislation- Have I shared the information gathered during the assessment and investigation directly with the client and (if appropriate) his or her legally authorized decision maker (SDM)? Have I *only* shared the relevant client information with health professionals and/or service providers? Have I *only* collected information relevant to my investigation?

No

Result: Assessed at a moderate or low level of risk

Direction:
1. Tell client the results of assessment and legally authorized substitute decision maker (SDM) if appropriate;
2. Inform the client and SDM (if appropriate) of any future situations in which Adult Protection would become involved, i.e. if things worsen in specific areas;
3. Give relevant information to the client and SDM (if appropriate) that may assist the client's current situation;
4. Upon the client's or SDM's (if appropriate) request, refer to the appropriate service(s);
5. Close case.

Important Note:

If an Adult Protection client is assessed at low or moderate risk, he/she would not be considered *an adult in need of protection*.

However, it is important to identify that he/she may still be in need of services to improve their well-being. If this is the case, *and* the client or SDM (if appropriate) *requests* a referral for service, the Adult Protection worker may refer to the appropriate service(s).

Because the client is *not* considered an adult in need of protection, he/she would not be given priority status for that service. Instead, the service providers would establish the individual's status on the waitlist for assessment and services.

Yes

Section 7: Referral for Service (No Court Order)

Result: Assessed at a *high* level of risk

Considerations:
1. Have I considered all of the least intrusive options for the client?
2. Have I given the client the information about the risks and services in a manner that is relevant to him/her? Is he/she able to demonstrate that he/she understands and appreciates how the recommended services will impact his/her situation?
3. Have I engaged the relevant SDM, (if appropriate)?
4. What relevant information have I collected that needs to be shared with service providers?

Stream One: Client has the mental capacity to understand and appreciate his or her level of risk; but does not have the *physical capacity* to protect him/herself from that risk. He or she is willing to consent for a referral for services.

Stream Two: Client does not have the mental capacity to understand and appreciate his or her situation of risk *and* is unable to give informed consent for a referral for services to mitigate the risk(s). He/she has a legally authorized SDM or guardian who is willing and able to consent for a referral for services.

Direction:
1. Make the appropriate referral(s) for service;
2. Document the follow up plan to ensure client is protected;
3. Inform client and SDM (if appropriate) of care and follow up plan.

Section 9: Court Ordered Intervention (Services)

Requires Supervisor Consultation

Result: Assessed at a high level of risk

Considerations:
1. Has the court appointed a GAL? Has the GAL arranged legal representation?
2. What relevant information have I collected that needs to be shared with service providers?
3. What information needs to be in the affidavit for court?
4. Did the client previously express his/her wishes in relation to services? Does he/she have a personal directive?

Client:
1. is mentally incapacitated to understand and appreciate his/her situation of risk;
2. is unable to give informed consent for a referral for services;
3. does *not* have an SDM *willing* and *able* to provide consent for service; or the SDM is not acting in the best interest of the client; or
4. is experiencing serious psychological and/or physical harm as a result of abuse/neglect.

Direction:
1. Make an application for a court order demonstrating reasonable and probable grounds that the adult meets the criteria of an adult in need of protection;
2. Document the follow up plan to demonstrate that client is protected after order is granted;
3. Inform the client of the results of the risk assessment, the rationale for proceeding with a *Section 9*, relevant information about the court process, the content of the care plan, recommendations and the follow up plan (may be at the same time of intervention).

Section 10: Immediate Removal

Requires Supervisor Consultation

Result: Assessed at an *extremely high* level of risk

Considerations:
1. Has the court appointed a GAL? Does he/she have legal representation?
2. What relevant information have I collected that needs to be shared with service providers?
3. Did the client previously express his/her wishes in relation to services? Does he/she have a personal directive?

Client:
1. is mentally incapacitated to understand and appreciate his/her situation of risk;
2. is unable to give informed consent for service;
3. does not have an appropriate SDM willing and able to provide consent for service;

AND

there are reasonable and probable grounds to believe the client's life is in imminent danger.

Direction:
1. If appropriate, inform police, ambulance, CC placement and service providers; e.g. SPCA;
2. Take client to hospital for medical assessment if appropriate;
3. Make an application to court under a *Section 10* for immediate removal demonstrating reasonable and probable grounds for the removal (must be in court within 5 days);
4. Inform service providers and family members (if appropriate) of the removal, e.g. Care Coordinator if services are currently being Provided;
5. Document the follow up plan to demonstrate that the client is protected after the order is granted;
6. Inform the client of the results of the risk assessment, the rationale for proceeding with a *Section 10*, relevant information about the court process, the content of the care plan recommendations and the follow up plan (may be at the same time of intervention).

Policy: 8.4 Adult Protection Process Maps

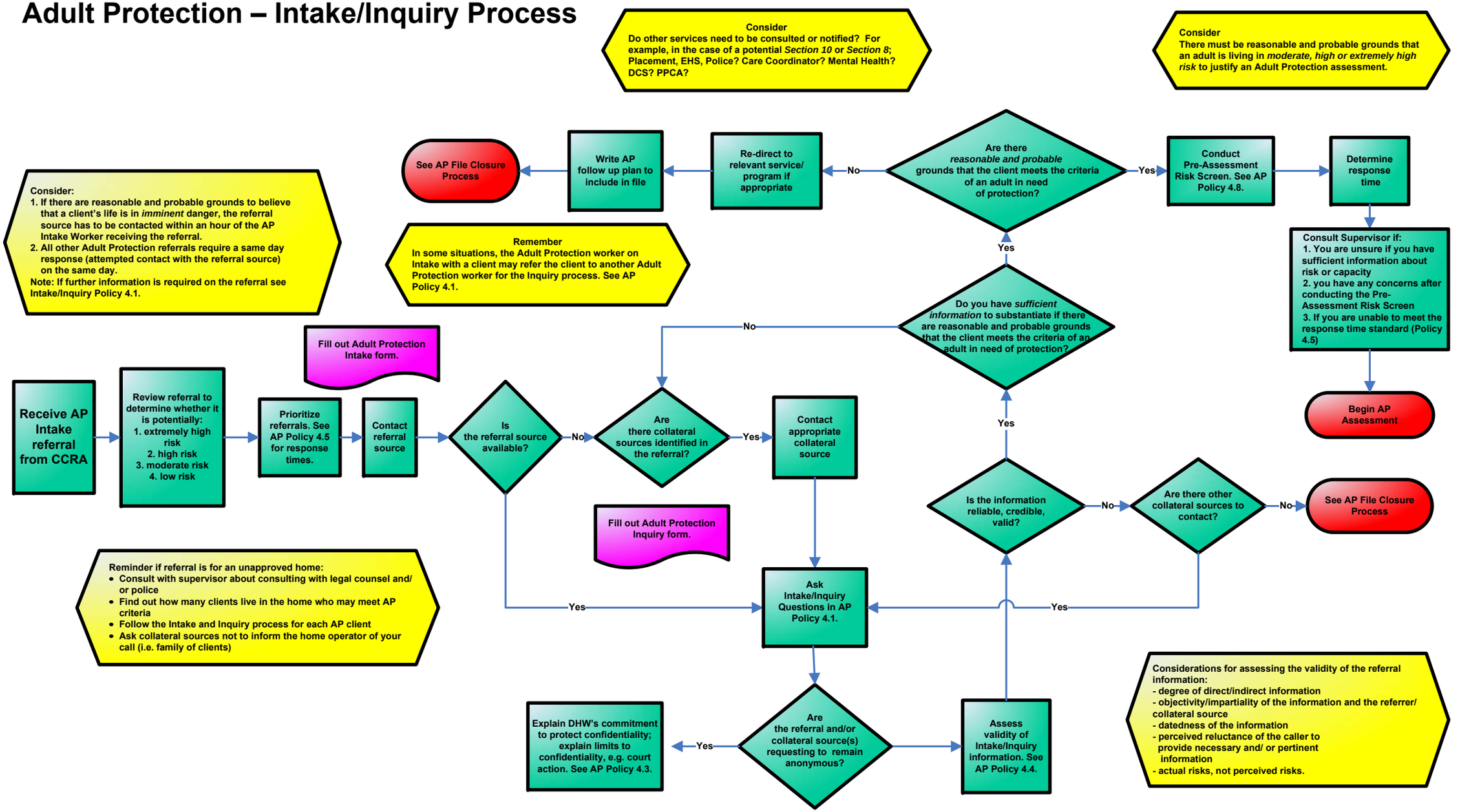
Effective date: February 8, 2011	**Version:** New Policy
Approved by: Kevin McNamara**,** Deputy Minister, Department of Health and Wellness	
Signature: ***Original signed by Kevin McNamara***	

8.4.1 POLICY

Adult Protection workers must use the attached process maps to guide them through the following Adult Protection processes:

- Intake and Inquiry
- Assessment
- *Section 8* Process
- *Section 7* Process
- *Section 9* Process
- *Section 10* Process
- Transporting and Removing Clients
- Follow Up Process
- File Closure Process.

Adult Protection – Intake/Inquiry Process



Adult Protection – Assessment Process

Consider
1. What other professionals need to be involved, e.g. police, another AP worker, animal control, EHS, VON?
2. If there are reasonable and probable grounds for a *Section 10*, should an ambulance and/or Placement be called?
3. Should family members be called?

Remember, if assessment concerns an unapproved facility:
- Consult with supervisor about consulting with legal counsel and/or police
- If you have to gather collateral information before visiting the home ask the collateral source(s) not to inform the home operator of your call
- Do not provide advance notice to the home of the assessment
- Ensure each AP client is assessed during the visit
- Interview the Home Operator and employee (if relevant) who is alleged to be the abuser/neglecter as part of the assessment
- Consider if the following people may be considered collateral sources:
  - other residents of the home
  - other employees of the home
- Keep AP supervisor informed of all developments during the assessment

Fill out Adult Protection Risk and Capacity Assessment.

Medical Observation Form and other health assessments as needed with the Risk and Capacity Assessment.

Plan for visit with the client for assessment

Determine if other professionals/ family need to be involved.

Contact other professionals/ family and AP supervisor as appropriate.

Is the referral for self-neglect or abuse/ neglect?

Self Neglect

Abuse/Neglect

If Abuse/Neglect:
1. choose appropriate assessment form
2. contact police and/ or other health professionals and/or family members as appropriate to attend assessment
3. Inform supervisor

Is the client and/or caregiver refusing entry to assess?

Yes

Proceed to *Section 8* Process

No

Is the client available?

No

Gather information from (in order):
1. collateral source(s) with firsthand information
2. health professionals listed in referral
3. any other sources listed in the referral

Continue to attempt to visit client according to the standard response times in AP Policy Manual, Policy 4.5.

Is the client available?

No

Work with the AP supervisor to:
1. develop a plan of intervention
2. communicate to family, health care providers if appropriate

Yes

Yes

Conduct AP Risk/Capacity Assessment.
Gather information from (in order):
1. client
2. collateral source(s) with firsthand knowledge
3. health professionals listed in referral
4. any other sources listed in the referral

Gather evidence from appropriate health professionals as needed throughout the assessment

Are there reasonable grounds to believe that the client is living at a low, moderate, high or extremely high level of risk?

Low/ Moderate Risk

High/ Extremely High Risk

Does the client have the mental *and/or physical capacity to be able to protect him/herself from risk?*

Has mental and physical capacity

Does not have mental and/or physical capacity

Does the client meet the criteria of the *AP Act*?

Yes

Proceed to Section 7, 9 or 10 process as required.

No

1. Tell the client the results of assessment and if appropriate, tell the SDM
2. Inform the client and SDM of any future situations in which AP would become involved (i.e. if things worsen in specific areas)
3. Give relevant information to the client that may assist his/ her current situation
4. Upon the clients or SDM's request, if appropriate, refer to the appropriate service

Write your actions and rationale in the client's file.

See AP File Closure Process

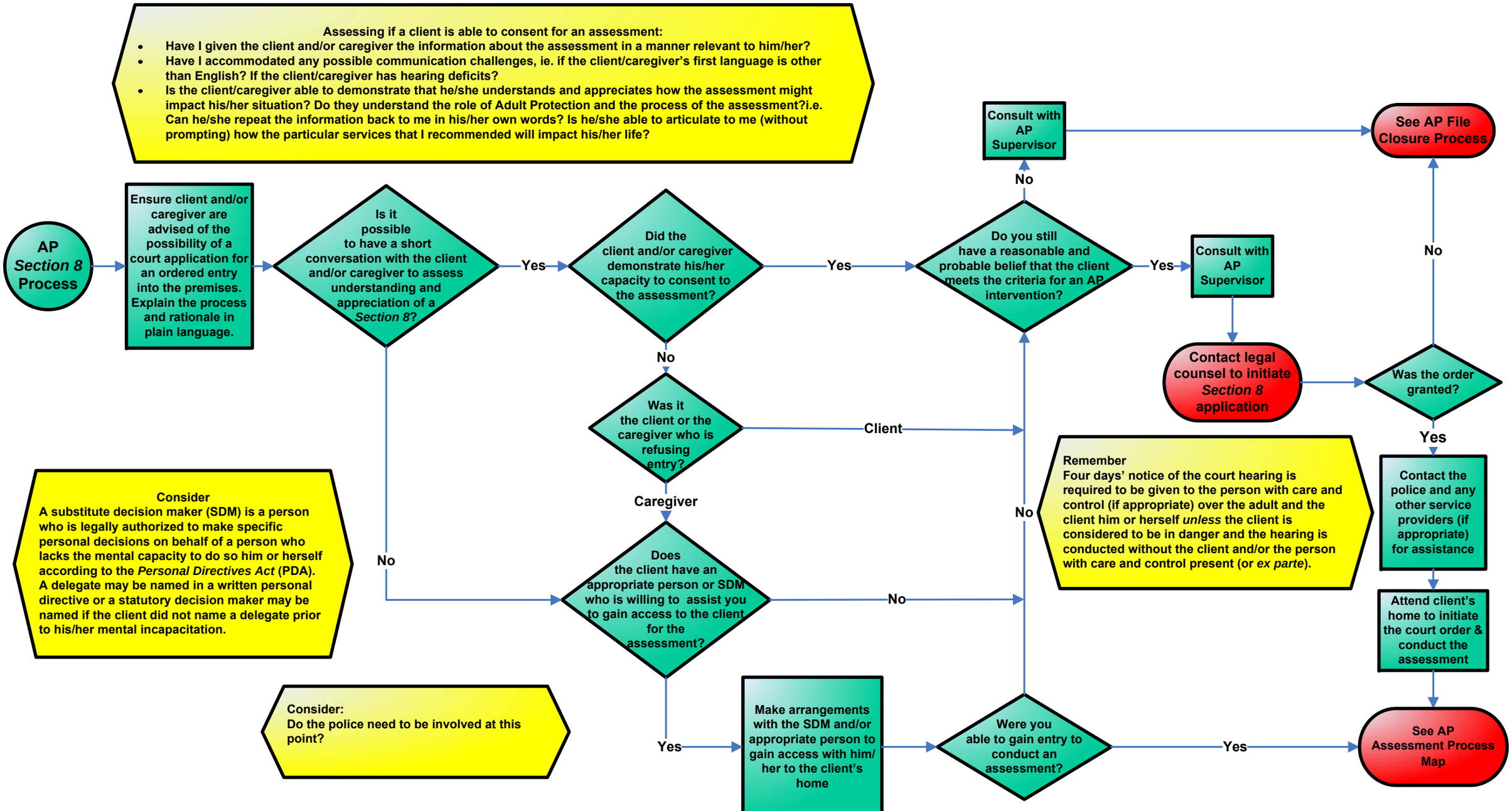
Consider
1. Are there marks/injuries on the person? Are these documented in a doctor's assessment or in another way? Does the person require a medical exam?
2. What is the relationship between the alleged abuser and the client? Is the alleged abuser the main caregiver? Do they live with the client?
3. Has the alleged abuser stopped services and/or family members from accessing the client?
4. How severe/ systemic is the alleged abuse/neglect?
5. How long has the alleged abuse/neglect been occurring?
6. If there are other health care providers involved with the client, should they be contacted?

Remember
If there is a situation where abuse and/or serious neglect is alleged and there are reasonable grounds to believe that the client does not have the mental capacity to protect him/herself, you must refer the matter to the police. If the client has the mental capacity to protect him or herself, you must offer to make a referral to the police on his/her behalf.

Consider
1. Is the client able to give consent for services?
2. Are there any conditions in which AP may need to re-investigate in the future?
3. Is a community variance appropriate in this situation?

Consider
A substitute decision maker (SDM) is a person who is legally authorized to make specific personal decisions on behalf of a person who lacks the mental capacity to do so him or herself according to the *Personal Directives Act* (PDA). A delegate may be named in a written personal directive or a statutory decision maker may be named if the client did not name a delegate prior to his/her mental incapacitation.

Adult Protection – Section 8 Process Map



Adult Protection *Section 7* Process

AP Risk and Capacity Assessment; may require MOF

Remember: The AP Risk and Capacity Assessment directs you as to what evidence you need to collect to support that the adult is in need of protection. This will include supporting medical/other health assessments if necessary.

Remember
In all complex cases, consult your supervisor.

Remember
Adult Protection would not make a referral to the Public Trustee for financial purposes for a *Section 7* client because, at this point, the courts are not involved. Other service providers, health care professionals or the substitute decision maker may refer on behalf of the client. Those individuals must contact the Office of the Public Trustee for information on who can refer and the referral process.

AP Client meets criteria of an Adult in Need of Protection

Is the client lacking the mental *capacity or only the physical capacity to be able to protect him/herself from risk?*

Physical *not* Mental Incapacity

Inform client of the results of the assessment and relevant services

Is the client willing to consent for services?

No

Provide client with the relevant service information and leave your contact information

The client does not meet the criteria for a *Section 7*. Document your process for assessing the client's ability to consent for services, your conclusion that he or she is able to provide informed consent for a referral for services and his or her refusal. Close file.

Yes

Mental Incapacity

Assessing if a client is able to consent for a referral for services (DCS or CC):

- Have I given the client the information about the services in a manner relevant to him/her?
- Is the client able to demonstrate that he/she understands and appreciates how specific services will impact his/her situation? i.e. Can he/she repeat the information back to me in his/her own words? Is he/she able to articulate to me (without prompting) how the particular services that I recommended will impact his/her life?

Inform client of the results of the assessment and relevant services

The client meets the criteria of a *Section 7*. Refer to Intake (DCS or CC) providing Medical Status and referral forms as required. If the client already has a Care Coordinator assigned, refer directly to the Care Coordinator.

Remember
Criteria for a *Section 7, APA*:
1. client meets the criteria of an adult in need of protection; and
2. client is physically incapacitated, but has the mental capacity to consent for services; or
3. client is mentally incapacitated but has an appropriate SDM to consent for services.

Mental Incapacity

The client does not meet the criteria for a Section 7. Document your process for assessing the client's ability to consent for services, your conclusion that he or she is able to provide informed consent for a referral for services and his or her refusal. Close file.

No

Fill out Medical Status and Intake referral forms for CC or DCS according to operational policy. Attach consent letter from PT.

Remember
Section 7 of the *Adult Protection Act requires* that the Minister comes to the conclusion that an adult is in need of protection. Once he or she does that, then he or she will refer the client for services. Once clients are referred to DCS, Continuing Care placement and Home care as adults in need of protection, they will receive priority over all other clients on the waitlist for services because of the level of risk in which they are living.

Is the client lacking the mental *capacity to consent for a referral for services?*

No

Is the client willing to consent for services?

Yes

Consider
A delegate is named in a personal directive by an individual before the onset of mental incapacity to make a particular personal decision. You must make inquiries to family members/the client to ascertain if a written personal directive exists. If you have made inquiries in good faith and have concluded that there is no personal directive to the best of your knowledge, then you must start approaching statutory decision makers according to the priority set out in the hierarchy in the *Personal Directives Act (PDA)*.

Remember
If a client *consistently* refuses services, ie. home care or placement, his or her capacity may be called into question. A *Section 9* or *10* intervention must be considered at this point.

Yes

Does the client have a *delegate or guardian* who is able and willing *to consent for a referral* for CC or DCS Services?

Yes

Remember
Under the following circumstances, a court order would have to be considered. If the client meets the criteria of being 'in need of protection' and:
1. is considered to be mentally incapacitated to protect him or herself from risk, AND is consistently refusing services; or
2. is experiencing serious harm due to abuse or serious neglect at the hands of others; or
3. there is no SDM; or
4. there is evidence to suggest that the SDM has not been acting in the best interests of the client.

Fill out Medical Status and Intake referral forms for CC or DCS. Attach consent letter from PT.

No

Remember
If you have evidence that supports a reasonable and probable belief that a substitute decision maker or guardian is not making decisions in the best interests of the adult in need of protection; ie. continuing to place the adult at risk after being informed of the protective needs of the adult, you must consider making an application to court under a *Section 9 or 10*.

Is there an SDM in the hierarchy of the PDA who is acting in the best interests of the client and who is able and willing to *consent for a referral* for DCS or CC Services?

Yes

Remember
If the adult in need of protection is living at a level of risk where he or she must be removed from his/her residence, the SDM must arrange to have the client transported by EHS. If he/she meets the criteria of a *Section 7*, the client will be charged for this transportation to placement. Refer to AP policy 6.6 Removal and Transportation of AP Clients.

Client does not meet criteria for *Section 7*: go to *Section 9* or *10* process as appropriate.

Client meets criteria of a *Section 7*. Refer directly to assigned Care Coordinator. Send copy of consent letter from PT.

No

Yes

Fill out Request for Decision-Health Care PT form; check 'health assessment'; also Form 1 Capacity Assessment for the physician.

Refer to the Public Trustee (PT) for consent for a referral to CC or DCS

Is the PT willing to provide a *consent letter for a referral to CC or DCS?*

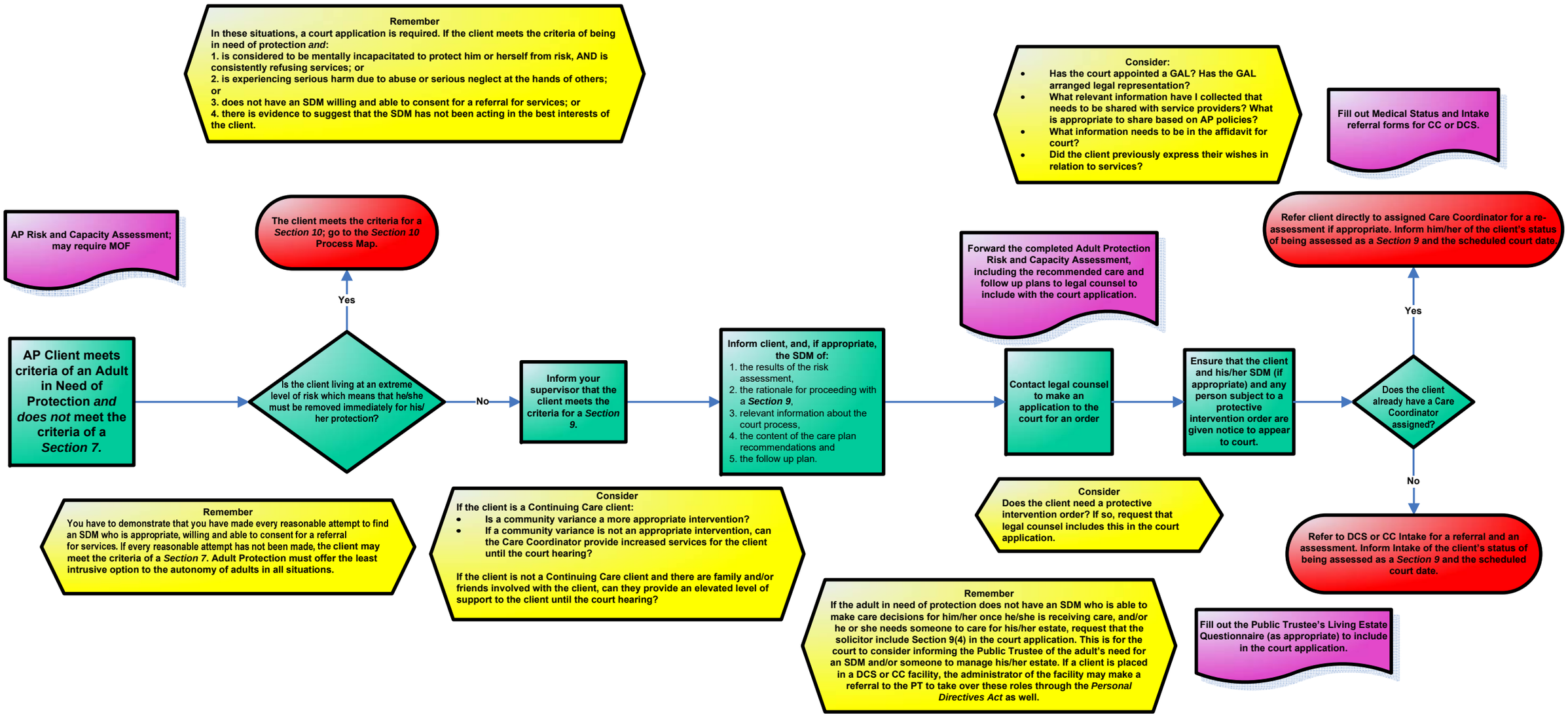
Yes

Does the client already have a Care Coordinator assigned?

No

Client meets criteria for a *Section 7*. Refer to DCS or CC Intake for a referral and an assessment . Send copy of consent letter from PT.

Adult Protection *Section 9* Process



Adult Protection *Section 10* Process

Consider
A 'reasonable attempt' to find a substitute decision maker or guardian would be to make reasonable inquiries of family members/neighbours/friends within the time constraints posed by the extremely high risk situation.

Remember
A *Section 10* under the *Adult Protection Act* only gives authority to *remove* the client from his or her premises because he or she is in immediate danger. If the court finds in the *Section 10* hearing that the client meets the criteria of an adult in need of protection and is in need of services to mitigate the protection needs of the client, the court can make an order for services under *Section 9(3)*.

Remember
If the adult in need of protection does not have an SDM who is able to make care decisions for him/her once he/she is receiving care, and/or he or she needs someone to care for his/her estate, request that the solicitor include *Section 9(4)* in the court application. This is for the court to consider informing the Public Trustee of the adult's need for an SDM and/or someone to manage his/her estate. This may happen in situations of abuse/serious neglect.

AP Client meets criteria of an Adult in Need of Protection *and does not* meet the criteria of a *Section 7 or 9.*

If not experiencing abuse or serious neglect, have you made every reasonable attempt to find an SDM who is appropriate, willing and able to consent for a referral for services?

No → The client may meet the criteria of a *Section 7*. You must go back to this process. Adult Protection must offer the least intrusive option to the autonomy of adults in all situations.

Yes →

Is the client living at an extreme level of risk which means that he/she must be removed immediately for his/her protection?

No → The client does not meet the criteria of a *Section 10*; go to the *Section 9* Process Map.

Yes →

Inform your supervisor that the client meets the criteria for a *Section 10*.

Inform client, and, if appropriate, the SDM of:
- the results of the risk assessment,
- the rationale for proceeding with a *Section 10*,
- relevant information about the court process,
- recommendations for a care plan;
- next steps.

Does the client appear to need medical attention and/or does the client need to be medically assessed for evidence of abuse/ serious neglect?

Yes →

Contact EHS and/or arrange for police or a family member to transport client to hospital for a medical assessment. Follow AP Policy 6.6.

Remember
If the client goes to the ER; you must meet the client there and share any relevant information with health providers. If possible, inform ER personnel in advance that you are taking the client to the hospital.

No →

Refer client to appropriate placement staff (DOH / DCS) for placement in the first available bed.

Fill out Referral for Placement form and ensure Medical Status form are filled out.

Remember
A substitute decision maker (SDM) may either be a delegate appointed by the client through a written personal directive or a statutory decision maker who is considered to be the 'nearest relative' from the hierarchy in the *Personal Directives Act Section 2(j)*.

AP Risk and Capacity Assessment must at least be partially filled out, to the point where the rationale is clearly articulated to substantiate that the client meets reasonable and probable grounds that he/she is need of protection and must be removed immediately due to the level of risk that he/she is living in.

Is there a bed available?

No → Contact EHS and/or arrange for police or a family member to transport client to hospital to the Emergency Department. Follow AP Policy 6.6.

Consult with supervisor about specific arrangements for the client

Continue to contact placement for the first available bed

Yes → Contact EHS and/or arrange for police or a family member to transport client to the placement. Follow AP Policy 6.6.

Remember
If there are no beds available for the client, Adult Protection will arrange for transportation of the client to the nearest hospital emergency room which is considered to be a place which the *'Minister considers fit and proper for the protection of the person and the preservation of his life' (Section 10(1) Adult Protection Act).*

Remember
If a client is removed to a place of safety, whether it is a hospital or a long term care facility, the assigned Adult Protection worker must continue on to complete the assessment. The *Adult Protection Act* recognizes that because of the extremely high level of risk in which the client is living, that Adult Protection workers need an additional time period to complete a full assessment. This is articulated in *Section 10(2)* which allows for 5 days for the assessment to be completed before legal counsel and the worker (on behalf of the Minister) must apply to the court.

Is there an appropriate person who is able to secure the property of the client?

No → Refer to the PT: follow AP Policy *6.7 Section 13 - Referral to the Public Trustee*

Fill out *Section 13* form (AP Policy 6.14.5) and Public Trustee's Living Estate Questionnaire (as appropriate).

Yes → Contact legal counsel to make an application to the court for an order

Consider:
- Has the court appointed a GAL? Has the GAL arranged legal representation?
- What relevant information have I collected that needs to be shared with service providers? What is appropriate to share based on AP policies?
- What information needs to be in the affidavit for court?
- Did the client previously express their wishes in relation to services?

Consider
Does the client need a protective intervention order? If so, request that legal counsel includes this in the court application.

Ensure that the client and his/her SDM (if appropriate) and any person subject to a protective intervention order are given notice to appear to court.

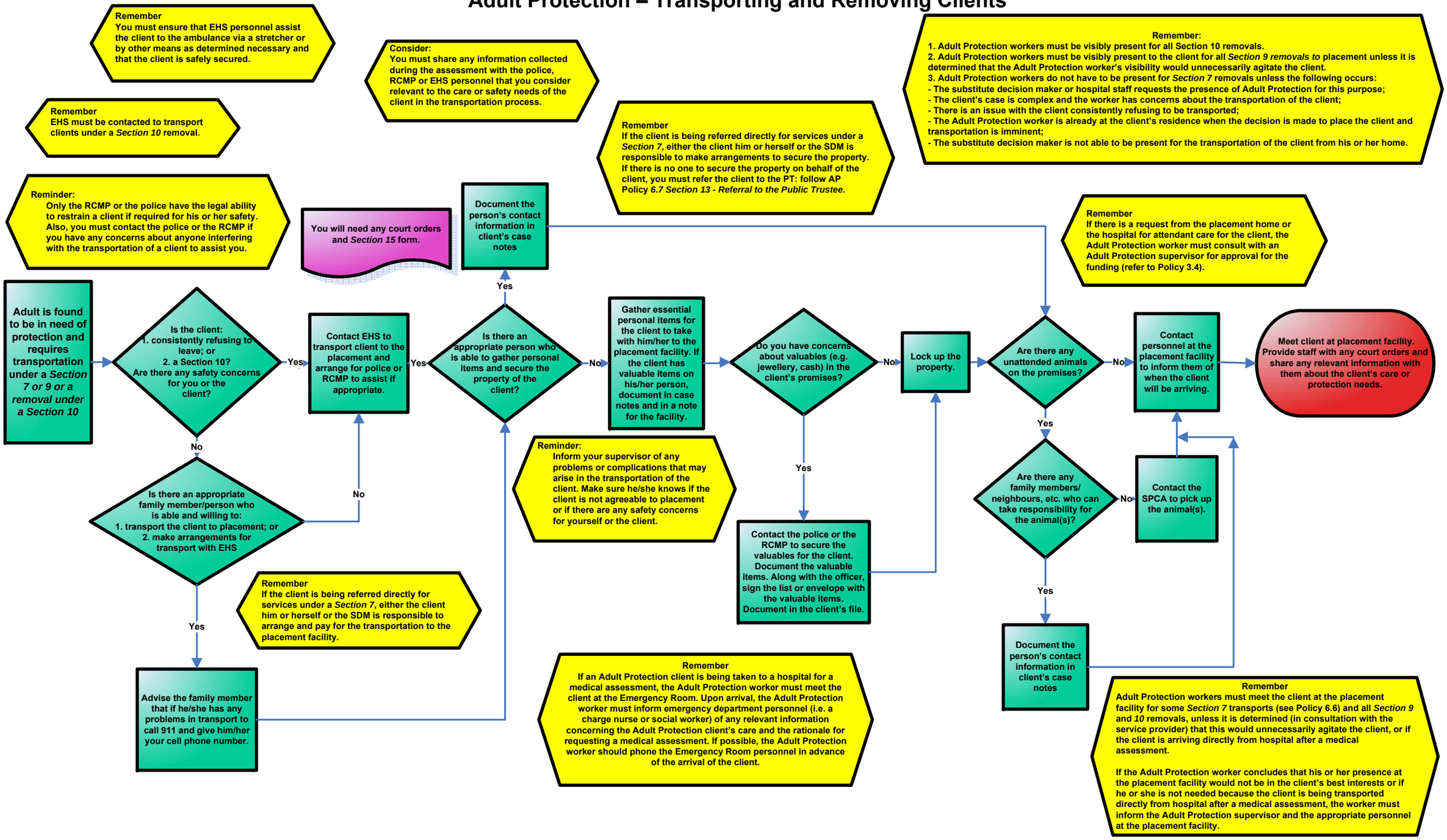
Remember: You must be visibly present for all removals under a Section 10.

Finish AP Risk and Capacity Assessment and submit to legal counsel to include in the court submission.

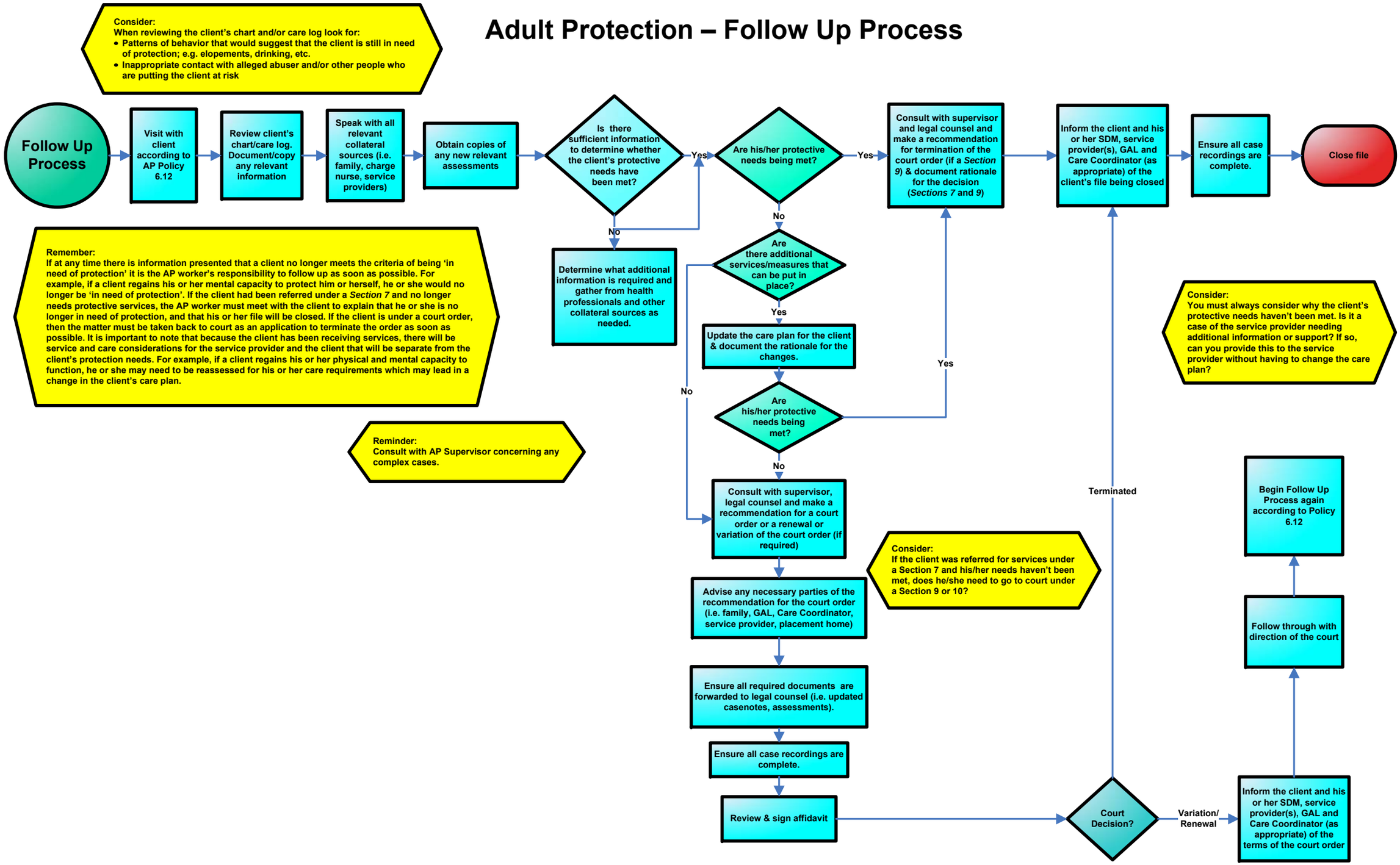
Forward the completed Adult Protection Risk and Capacity Assessment, including the recommended care and follow up plans to legal counsel to include with the court submission.

Attend court with the completed AP Risk and Capacity Assessment, including any additional medical evidence, the care level decision from DCS or CC and recommendations for the care and follow up plans for the client.

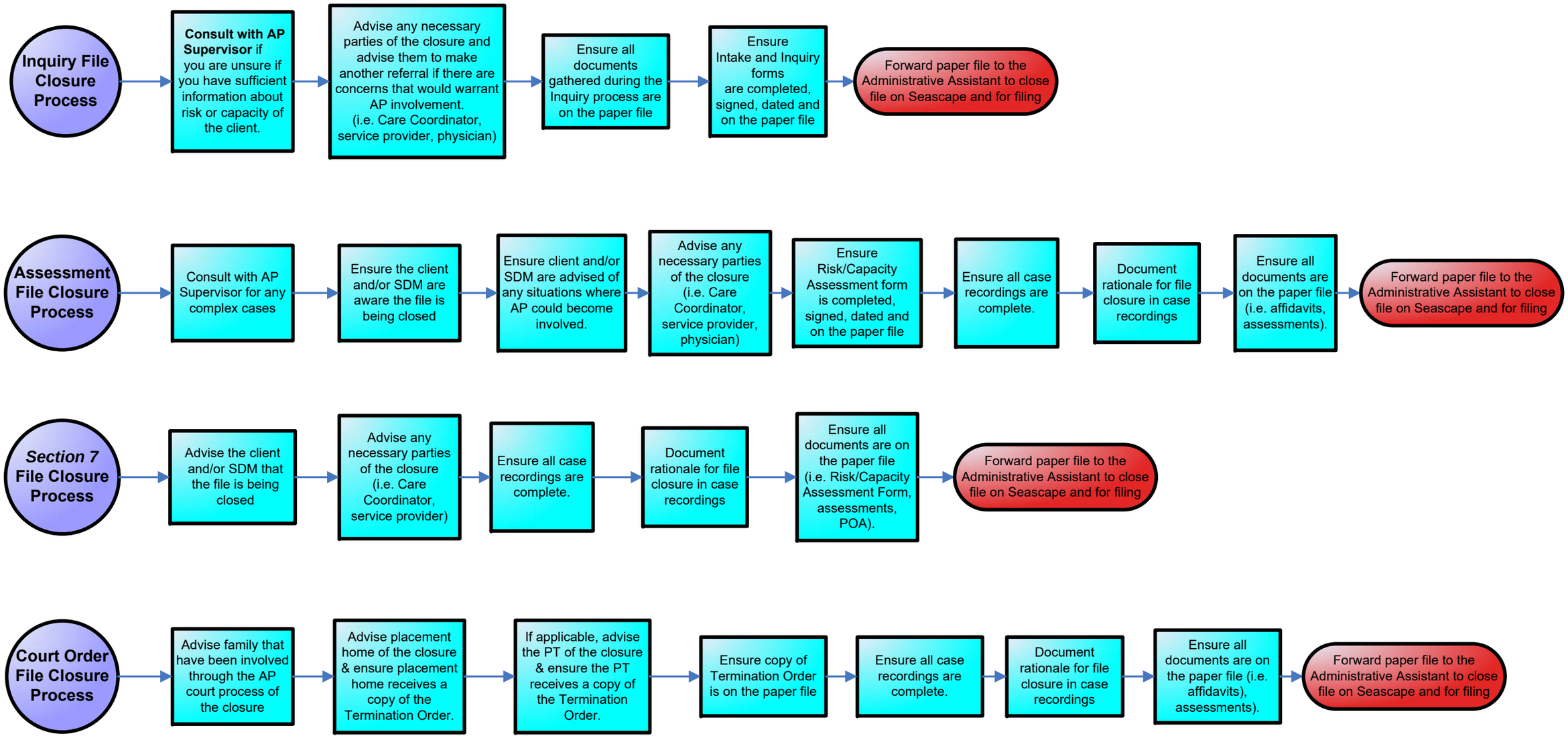
Adult Protection – Transporting and Removing Clients



Adult Protection – Follow Up Process



Adult Protection – File Closure Process



MINISTERIAL AUTHORIZATION
Hospitals Act
Clause 71(5)(e)

Pursuant to Section 71(5)(e) of the *Hospitals Act,* I, the Honourable Chris A. d'Entremont, Minister of Health, hereby designate and authorize the staff of the Adult Protection Services, pursuant to the *Adult Protection Act*, to receive from District Health Authorities in Nova Scotia such hospital records and information as the Adult Protection staff in their discretion deem necessary for carrying on an inquiry and/or an assessment pursuant to the *Adult Protection Act* for the period of December 31, 2006 to December 31, 2011.

Dated at Halifax, Nova Scotia, this 12 day of December, 2006.

The Honourable Chris A. d'Entremont
Minister of Health

Appendix B: Summary of Time Standards

I. INTAKE AND INQUIRY (POLICY 4.5)

RESPONDING TO REFERRALS AT INTAKE

1. **<u>Immediate Response</u> (within an hour of the Adult Protection worker on Intake *receiving* the initial referral) -** An immediate response is required when the Adult Protection worker on Intake has *reason to believe*[1] that an individual's life is in *imminent danger*[2]*.* In this situation, the Intake worker follows up on the referral and informs his or her Adult Protection supervisor *immediately*.

2. **<u>Same Day Response</u>-** All other Adult Protection referrals are to be initially followed up on by the end of the business day.

MOVING FROM INTAKE TO INQUIRY

1. **<u>Immediate Response</u> (within an hour of the Adult Protection worker *receiving* the referral from the Adult Protection Intake worker) -** An immediate response is required when the Adult Protection worker has *reason to believe*[3] that an individual's life is in *imminent danger*[4] after a review of the case file from the Adult Protection Intake worker*.* In this situation, the Adult Protection worker who has been assigned the case informs his or her Adult Protection supervisor *immediately* if he or she decides to move ahead with an assessment.

2. **<u>24 Hour Response</u>-** All other Adult Protection referrals are to be followed up with initial inquiries within *24 hours*.

II. ASSESSMENT (POLICY 5.7)

MOVING FROM INTAKE AND INQUIRY TO ASSESSMENT

In order for a client to move forward to Assessment from the Intake and Inquiry stage of intervention, an Adult Protection worker must conclude that the client is living at an **extremely high, high or moderate level of risk**.

1. **<u>Extremely High Risk-</u>** Requires an assessment on the **same day** of the referral to Adult Protection.

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[1] The standard of 'reasonable and probable grounds' does not have to be met at this point. The Adult Protection worker must have a 'reasonable belief' that a person's life may be in imminent danger.
[2] For the purposes of Adult Protection, 'imminent' danger means that the person's life may cease within a 48 hour period. Refer also to *Policy 8.1 Adult Protection Risk Continuum*
[3] The standard of 'reasonable and probable grounds' does not have to be met at this point. The Adult Protection worker must have a 'reasonable belief' that a person's life may be in imminent danger.
[4] For the purposes of Adult Protection, 'imminent' danger means that the person's life may cease within a 48 hour period. Refer also to *Policy 8.1 Adult Protection Risk Continuum*

2. **High Risk-** Requires an assessment within **2 working days** of the referral to Adult Protection.

3. **Moderate Risk-** Requires an assessment within **5 working days** of the referral to Adult Protection.

COMPLETING THE ASSESSMENT (POLICY 5.12)

An Adult Protection Assessment shall be completed within ***7 working days*** of the start date of the assessment process.

III. CARE PLAN

FOLLOWING UP ON THE CARE PLAN WITH THE CLIENT (POLICY 6.12)

1. ***Section 10*** **Removal of a Client-** Adult Protection workers must follow up with the service provider ***within three days*** of a client being removed to ensure that the client is safe;

2. ***Section 9*** **Authorized Services from the Minister-**

   - Adult Protection workers must follow up with the service provider ***within one month*** of a client being provided with services;
   - Adult Protection workers *must* ***visit the client within three months*** of receiving services;
   - If the client's protective needs have been met, the worker shall consult with the Adult Protection supervisor and legal counsel to submit an application to terminate the order ***within two weeks*** of concluding that the adult is no longer in need of protection;
   - If the client's protective needs are not being met, the worker shall work with the service provider and the client to change the care plan to ensure that the client's protective needs will be met and shall submit an application to vary the court order ***within one month of concluding that the adult is still in need of protection*** if needed;
   - If the client's protective needs have not been entirely met, but there has been progress toward his or her needs being met; the worker shall update the file and will ***reassess the client within three months***. If at that time, the client's protective needs have been met, the worker shall apply to terminate the order. If the client's needs have not been met, the worker shall apply to renew the order. ***Applications for variations, renewals or terminations must be made within six months of the date of the original Adult Protection order.***

3. *Section 7* Referral for Services-

- Adult Protection workers must follow up with the service provider, client and substitute decision maker (if appropriate) ***within one month*** of a client receiving service;
- Adult Protection workers must contact the client and substitute decision maker (if appropriate) ***within three months*** of the service being provided to establish whether the client's protective needs are being met;
- If the client's protective needs have been met, the worker must close the file ***within one week*** of concluding that the adult is no longer in need of protection;
- If the client's protective needs are not being met, the worker must work with the service provider and the client to change the care plan to ensure that the client's protective needs will be met or must submit an application for a court order if needed. The care plan must be revised or an application for a Section 9 court order must be made ***within two weeks*** of establishing that the client's protective needs are not being met.

FOLLOWING UP ON A *SECTION 9* (POLICY 6.13.1)

Adult Protection workers who are assigned Adult Protection clients who meet the criteria of a *Section 9* intervention must follow up with the client and his or her caregiver (if appropriate) to inform him or her of the impending court hearing and what to expect from the process ***within three days*** *of* concluding that the adult is in need of protection.

Additionally, workers must follow up with the client and caregiver (if appropriate) again, ***at least one week*** prior to the court hearing to ensure that the client's situation has not deteriorated substantially.

IV. DOCUMENTATION (POLICY 7.4.1)

If an Adult Protection worker takes short hand notes during the course of an investigation, he or she must write the long hand version of the notes within ***24 hours*** of making the original notes.

Adult Protection workers must transcribe all handwritten notes onto the computer file as soon as possible and ***no later than three working days*** following the contact.

Appendix C: Adult Protection Summary of Terms

Abandonment - When a person providing care to an individual relinquishes his or her role by leaving the adult alone and refusing to return or leaving the adult at a hospital and refusing to take him or her back home. Although there may be many factors impacting this decision, such as the stress of providing care and safety for the adult, for the purposes of Adult Protection, this is considered a voluntary act.

Action Plan for the Assessment- This plan is to determine how the Adult Protection worker will conduct the assessment. Considerations would include; whether or not family members should be included in the assessment and if other professionals need to be contacted, such as Emergency Health Services, the police or Animal Control.

Activities of Daily Living (ADLs) - Primary level of activities vital to daily living, such as dressing, feeding, grooming, meal preparation and bathing.[1]

Adequate Level of Care - A level of care where an adult is receiving or providing him or herself with the essential necessities of life, which includes food, water, housing, life sustaining medication/medical treatment, and is therefore, not living at significant risk[2].

Adult - Under the *Adult Protection Act*, an adult is considered to be a person who is 16 years of age or older[3].

Adult in Need of Protection - An adult being considered 'in need of protection' is the *conclusion* that the Adult Protection worker makes after conducting his/her assessment. If an adult is found to be in need of protection at this point, the Adult Protection worker moves forward with a *Section 7, 9 or 10*. If the adult's case goes to court under a *Section 9 or 10*, the judge *also* makes a conclusion as to whether or not the adult is 'in need of protection'. It is important to note that concluding that an adult is in need of protection only gives the adult *priority access to* services. Adult Protection workers can still refer adult protection clients who are in need of services, (even if they *do not* meet the criteria of adults in need of protection), but they will not receive priority access to services.

To be an adult in need of protection, he/she must meet the following criteria:

(a) is 16 years of age or older

(b) is living at significant risk as determined by the Adult Protection Risk and Capacity Assessment

(c) is mentally and/or physically incapacitated to protect him/herself from the assessed risk(s)

(d) has a permanent/irreversible condition that affects his/her mental or physical capacity to protect him/herself.[4]

Adult Protection client- An adult is considered an Adult Protection client if, at Intake, the Adult Protection worker moves forward to the Inquiry stage of intervention. An adult is considered to be an Adult Protection client throughout the entire Adult Protection process; including the follow up to an intervention (where it is determined if the adult's protective needs have been met *if* he/she has been found to be an adult in need of protection).

Adult Protection Care Plan- The care plan is written by the Adult Protection worker and stored in the client file for a *Section 7.* For a *Section 9 or 10,* the care plan (as written by the Adult Protection worker) is brought to the court. The

[1] http://www.vac-acc.gc.ca/clients/sub.cfm?source=dispen/2006tod/ch_19_2006; as retrieved on May 27, 2009.
[2] See *Section 3(b) Adult Protection Act.*
[3] See *Section 3(a) Adult Protection Act.*
[4] See *Section 3, Adult Protection Act.*

court uses the care plan to formulate a court order directing various actions that must take place to satisfy the protection needs of the client. The care plan and the court order are stored in the client's file. The follow up plan assesses whether or not the client's protection needs have been met.

Adult Protection Coordinator- The Provincial Coordinator of Adult Protection Services appointed pursuant to the *Adult Protection Act*[5].

Adult Protection Designate- An employee of the Department of Health and Wellness who is not an Adult Protection worker but who has been designated to act in the capacity of an Adult Protection worker under the *Adult Protection Act*[6].

Adult Protection Designated Staff– The Adult Protection Provincial Coordinator, Adult Protection supervisors, Adult Protection workers and designated field staff pursuant to *Section 4(1)* of the *Adult Protection Act*.

Adult Protection Stages of Intervention - Adult Protection stages of intervention are the following:
1. *Intake and Inquiry* 2. *Assessment* 3. *Implementing the Case Plan* 4. *Follow Up*

Adult Protection Worker- this is the recommended position title on the job description from the Nova Scotia Public Service Commission. The formal position title for classification purposes is Social Worker- Adult Protection. For the purposes of this policy manual, the recommended position title will be used- Adult Protection Worker.

Appreciate – In order for someone to demonstrate that he or she has decision-making capacity in a specific area; he/she has to ***understand and appreciate*** the decision. The ability to appreciate is related to whether or not the individual has a realistic appraisal of the possible outcomes of the decision and can rationalize his or her choices. If a person has capacity, he or she is able to articulate how a specific decision will impact his or her life, at that point in time[7].

Assessment – This is the second Adult Protection stage of intervention; this stage comes after Intake and Inquiry. At this stage, the Adult Protection worker assesses the level of risk in which a person is living, whether or not he/she has the physical or mental capacity to protect themselves from that risk and if he/she has a permanent, irreversible condition that affects his/her physical or mental capacity to protect him/herself from the assessed risks.

Assistance to Obtain Services - Under *Section 7 of the Adult Protection Act*, Adult Protection workers shall refer adults in need of protection to appropriate and available services in the community to meet their protection needs[8].

Autonomy – The ability to make independent choices, free of external control or the influence of others. Other terms that are used to describe autonomy are; self determination, self-sufficiency, self-reliance and independence[9]. In Canada, we have articulated that the value of the autonomy of our citizens is to be held as a primary value in our society. This has been clearly articulated through the ***Canadian Charter of Rights and Freedoms***. Influencing or taking away a person's autonomy is considered a very serious infraction of their rights and may only happen in

[5] See *Section 3(c), Adult Protection Act.*
[6] See *Section 4(1) of the Adult Protection Act.*
[7] http://www.advocacycentreelderly.org/pubs/poa/Consent_and_capacity_basics.pdf, as retrieved on May 27, 2009.
[8] See *Section 7, Adult Protection Act.*
[9] Canavello, Amy, Knee, C.Raymond, Lonsbary, Cynthia, Patrick, Heather, "The Role of Need Fulfillment in Relationship Functioning and Well-Being: A Self-Determination Theory Perspective", Journal of Personality and Social Psychology, 2007, Vol. 92, No. 3, 434–457.

extraordinary circumstances. Such circumstances may be if the person violates the law or if he/she is an adult in need of Government protection. If a person's autonomy is taken away due to these circumstances, due process according to the *Charter* must be followed to ensure that their rights are being protected[10].

Balance of Probabilities - Balance of probabilities, also known as the preponderance of the evidence[11] is a standard proof for most civil cases. The standard of proof is met if the evidence, testimony and exhibits support that the facts/event(s) are more likely to be true than not true. The standard is met if there is greater than 50 percent chance that the information/evidence is true. This standard of proof is less than 'beyond reasonable doubt', which is the standard for criminal court matters. See *Adult Protection Act, Section 9 (9)*.

Best Interests - 'Best interests' is a method for making decisions which aims to be more objective than that of substituted judgment. A 'best interest standard' is only utilized when an adult no longer has the mental capacity to make their own decisions. It requires the decision maker to think what the 'best course of action' is for the person. It should not be the personal views of the decision-maker. Instead it considers both the current and future interests of the person who lacks capacity, weighs them and decides which course of action is, on balance, the best course of action for them in relation to their protection needs.[12] In order to determine what is in the person's 'best interests', a number of factors must be considered:

(1) The person's past and present stated wishes (and, in particular, any relevant advance directives made while the person had capacity);

(2) The values that would be likely to influence his/her decision if he had capacity; and

(3) The other factors that he/she would be likely to consider if he were able to do so.

Caregiver- This would be considered family members, friends or guardians who provide support and care to Adult Protection clients. For the purposes of Adult Protection, they are "any person having care or control of the adult"[13]

Caregiver Burnout - When a caregiver has reached a point where they believe they no longer have the ability to provide care to a dependent adult. They are emotionally and physically drained from the effort of taking care of the dependent adult[14]. Caregiver burnout is established when the caregiver has been given information about all of the available support options from the Adult Protection worker or health care provider and has reached the conclusion that even with those supports, he/she can no longer provide care to the client.

Capacity - In Adult Protection, there are two determinations of capacity:

1. **First, an Adult Protection worker must *identify if the Adult Protection client has the ability to either physically or mentally protect him/herself* from the risk(s)** that were identified in the Adult Protection Risk and Capacity Assessment. This is indicated in the purpose of the *Adult Protection 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. R.S., c. 2, s. 2.*

   This is further clarified in *Section 3*, the definition of 'an adult in need of protection':

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[10] Retrieved from http://www.charterofrights.ca/en/02_00_01, May 27, 2009.
[11] Retrieved from http://dictionary.law.com/definition2.asp?selected=1586, May 27, 2009.
[12] Best Interests: Guidance on determining the best interests of adults who lack the capacity to make a decision (or decisions) for themselves [England and Wales]. A report published by the Professional Practice Board of the British Psychological Society. Retrieved from http://www.bps.org.uk/downloadfile.cfm?file_uuid=448A2D24-1143-DFD0-7E4B-5FA0B872E9C1&ext=pdf on January 6, 2009.
[13] See *Adult Protection Act.*
[14] Retrieved from http://www.thecareguide.com/Resources/ResourceDetails.aspx?section=Caregiving&itemid=668, May 27, 2009.

(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.*

Therefore, an adult in need of protection may have *either a physical or a mental incapacity to protect him/herself* from risk. In the *Act*, this language is slightly outdated; although it states that an adult in need of protection is 'incapable'; the qualifiers used to describe this incapacity, is *by reason of physical disability or mental infirmity*. In the Adult Protection Policy Manual, this will now be referred to as a 'mental incapacity' or 'physical incapacity'.

In the Adult Protection Risk and Capacity Assessment, an adult's mental capacity or the ability to understand and appreciate the risks is assessed through a series of questions *and* gathering relevant information about the adult's cognitive state, through using cognitive performance tools such as the MMSE and evidence presented by health professionals (if needed). An adult's physical capacity to protect him/herself from risk is mostly determined through the functional aspects of the Adult Protection Risk and Capacity Assessment. If an Adult Protection worker, after conducting his/her assessment is unsure about the adult's capacity (physical or mental ability to protect him/herself from risk), he/she will refer to the appropriate health professional(s) to gather more information from a more in-depth assessment.

2. **Secondly, an Adult Protection worker must determine *if an adult has the mental capacity to consent for a referral for service(s).*** This conclusion is made after the Adult Protection worker has determined that the adult meets the criteria of an adult in need of protection. When presenting the results of the assessment to the client, the Adult Protection worker presents the service options (in plain language) to the client; if the client is *unable* to understand and appreciate what the services are and how they will improve his/her situation of risk, the Adult Protection worker must establish if there is an appropriate substitute decision maker who can make service decisions for the client.

If there is an appropriate substitute decision maker, the Adult Protection worker can work with them under *Section 7* of the *Adult Protection Act:*

7 Where, after an assessment, the Minister is satisfied that a person is an adult in need of protection, the Minister shall assist the person, if the person is willing to accept the assistance, in obtaining services which will enhance the ability of the person to care and fend adequately for himself or will protect the person from abuse or neglect. R.S., c. 2, s. 7.

If a client is considered to be an adult in need of protection and he/she *does not have a legally authorized substitute decision maker*; the Adult Protection worker proceeds with a *Section 9* or *10* under the *Adult Protection Act*.

- For a definition of **Mental Capacity** see Mental Incapacity or Mental Capacity Assessment
- For a definition of **Physical Capacity** see Physical Disability/Incapacity

Care Plan – This is an action plan to refer directly for services, or to initiate a court application to refer for services and/or protective intervention. If a court application is initiated for the adult in need of protection, the care plan is included in the application and approved by the court. The services are chosen based on the assessed risks of the client; the client's previously expressed and current wishes and; the best interests of the client. The care plan is accompanied by a follow up plan which evaluates if and how the client's protective needs have been met. See also Protection Needs.

Collateral Contacts - Contacts that are made in person or by phone with people who may have useful or pertinent information concerning the risks and/or capacity concerns of a client. Collateral contacts may be utilized both in the *Inquiry* and the *Assessment* stages of intervention.

Compelling Evidence (see also *Balance of Probabilities* and *Reasonable and Probable Grounds*) - Convincing evidence is presented to support that there is more than a 50 per cent probability that an adult would meet the criteria of an adult in need of protection; and therefore, the Adult Protection worker must seek further information or act accordingly. In order to comply with the *Canadian Charter of Rights and Freedoms*, Adult Protection workers must ensure that they have reasonable and probable grounds when moving from the *Intake and Inquiry* stage of intervention into the *Assessment* stage of intervention[15]. See *Section 6 (b), Adult Protection Act*.

Conveyance of an Order - Ensuring an Adult Protection client who is subject to an *Adult Protection Order*, as ordered by the court, is conveyed or transported to the placement. *See Section 15, Adult Protection Act*.

Confidentiality - Ensuring an adult's private information is kept in confidence and not disclosed, unless there are compelling circumstances that affect someone's health or safety, (i.e. a client who threatens to injure him/herself or another person)[16], the client is being referred for service, an application is being made to court or the client's case is being heard before the court. In all circumstances, only *relevant* information is to be shared[17]. It is important to note that a client has the right to request his or her file at any time under the *Freedom of Information and Protection of Privacy Act,* 1993.

Court – Adult Protection matters are heard in the Supreme Court (Family Division) in the Halifax Regional Municipality and Cape Breton or the Family Court in other jurisdictions in the province.

Court Application - The process of applying to the court to seek orders under *Sections 8, 9, 10* or *16 of the Adult Protection Act*.

Contractures – The stiffening or fixation of the joints due to shortening of the muscles from lack of use or from not being moved[18].

Contravention of Act/Order – The failure to comply with an Adult Protection order or any parts of the *Adult Protection Act* is considered a punishable offence; possibly resulting in a fine or imprisonment. See *Section 17, Adult Protection Act*.

Criminal Offence - An offence under the *Criminal Code of Canada*. Criminal offences must be proven beyond a reasonable doubt and are focused on the offender[19].

Delirium - An acute, sudden change in brain function, (cognition, focus and perception), resulting in severe confusion. It can occur in a few hours to days. It can cause disorientation, confusion, hallucinations and possible delusions. Delirium is most often caused by physical or mental illness and is usually temporary and reversible. Many disorders cause delirium, including conditions that deprive the brain of oxygen or other substances such as; urinary tract infections, side effects of medications, dehydration or malnutrition, the cessation of an addictive substance and numerous other physical conditions such as heart conditions or diabetes[20].

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[15] Department of Justice Canada. Retrieved on August 12, 2008 from http://laws.justice.gc.ca/en/charter/#garantie. See *Adult Protection Guiding Principles*.

[16] NS Department of Health/Office of Health Promotion Policy: Verbal Disclosure of Client's Personal Information Policy Guideline, 2004, page 3.

[17] See *NS Department of Health/Office of Health Promotion Policy: Verbal Disclosure of Client's Personal Information Policy Guideline*, 2004.

[18] Retrieved from http://www.umm.edu/ency/article/003185.htm, May 27, 2009.

[19] Retrieved from http://www.ctmin.org/pdf/crime.pdf, May 27, 2009.

[20] Retrieved from http://www.nlm.nih.gov/medlineplus/ency/article/000740.htm, May 27, 2009.

Delusions - Fixed false perceptions or beliefs which are not supported by facts or logic. A delusion may be firmly maintained in the face of incontrovertible evidence that it is false[21]. For the purposes of Adult Protection, delusions are considered to be an effect due to a pathology; delirium, dementia, brain injury or mental illness.

Dementia - A chronic, progressive neurological condition that affects cognitive functioning abilities caused by organic brain disease. With dementia, there is significant loss of intellectual abilities such as memory capacity, attention, orientation, memory, judgment, language, motor and spatial skills which can become severe enough to interfere with social or occupational functioning.[22]

Direct Evidence of Abuse and/or Neglect[23]- Personal first-hand observations or documents that establish that abuse and/or neglect have occurred are considered to be direct evidence.

Direct Evidence in the Context of Adult Protection May Include:

- Objective eyewitness observations of abuse or neglect;
- An adult's disclosure or description of abuse and/or neglect;
- An alleged abuser or neglecter's admission of abuse and/or neglect;
- Photographs, audio or video of an incident or incidents of abuse and/or neglect;
- Medical assessments or documentation of physical and/or mental indicators of abuse or neglect;
- A demonstrated inability of a caregiver to provide essential care for the client.

Duty to Report - The legal requirement under the *Adult Protection Act* that requires any Nova Scotian to report an individual suspected to be an adult in need of protection whether or not it is confidential or privileged. See *Section 16(1)* of the *Adult Protection Act*.

Elopement - This term may be used in two separate contexts in Adult Protection. Wandering, or elopement, is seen as a risk factor related to the cognitive impairment of an individual. Elopement occurs when a cognitively impaired individual wanders outside the environmental "limits" of his or her home or facility[24]. In another context, when a client is under an Adult Protection order and leaves without expressed permission from where they are being detained for their protection, this is considered 'elopement'.

Emotional/ Psychological Abuse- For the purposes of Adult Protection, emotional abuse is the deliberate mistreatment of a mentally or physically incapacitated adult which are meant to diminish their identity, self-worth and/or their dignity, as well as acts that are meant to produce fear, anxiety, guilt and/or stress. Emotional abuse can include name calling, ridiculing, social isolation, ignoring, constant criticism, threats (i.e. of harm, isolation, institutionalization, restraints, and violence), humiliation, intimidation, verbal aggression (ie. yelling and screaming) and degradation. Also considered emotional or psychological abuse is the deliberate withholding of important information that the vulnerable adult has a right to know[25]. See also Mental Cruelty and Psychological Harm.

Enduring Power of Attorney (EPOA) - This term is used to describe both a legal document and a legally designated person under the *Powers of Attorney Act*[26]. The signed EPOA document names a signed legal authority (attorney) to make financial decisions, related to property and other financial affairs, when the adult is incapacitated to make

[21] Retrieved from http://www.medterms.com/script/main/art.asp?articlekey=26290, May 27, 2009.
[22] Retrieved from http://www.medterms.com/script/main/art.asp?articlekey=2940, May 27, 2009.
[23] Adapted from Department of Community Services: Child Protection Services Manual, dated January 1996 and from an insert in the Adult Protection Policy Manual, April 2001 that was adapted from Recognizing Child Abuse: A Guide for the Concerned.
[24] Retrieved from http://www.healthcare.uiowa.edu/igec/publications/info-connect/assets/great_escapes.pdf, May 27, 2009.
[25] Retrieved from http://www.vchreact.ca/read_psychological.htm, May 13, 2009.
[26] See http://www.gov.ns.ca/legislature/legc/statutes/powers.htm, *Powers of Attorney Act.*

financial decisions.

Execution of an Order - Carrying out an Adult Protection order granted by the court. This order authorizes "the Minister to provide the adult with services, including placement in a facility approved by the Minister, which will enhance the ability of the adult to care and fend adequately for himself or which will protect the adult from abuse or neglect"[27].

Guardian ad Litem- A guardian ad litem (GAL) is a guardian appointed by the court to *represent an individual in court, for a specific action or application*. The guardian ad litem is not the overall guardian of the person and is not authorized to in this role, and therefore, does not have signing authority or other authority over the person's life outside of this advocate role. The GAL works with (and for) adults in need of protection by investigating the circumstances surrounding the application, meeting with family and friends to try to determine the events leading up to the application and to identify how to represent the wishes and best interests of their client during the court proceedings[28].

Hallucination - A profound distortion in a person's perception of reality, typically accompanied by a powerful sense of reality. A hallucination may be a sensory experience in which a person can see, hear, smell, taste, or feel something that is not there[29].

IADLs- Instrumental Activities of Daily Living - Secondary level of activities needed for daily living such as shopping, house cleaning, driving, cooking, telephone, laundry, and managing finances[30].

Incapable of Caring Adequately for Himself or Herself – For the purposes of Adult Protection, this term means that an individual is self-neglecting, not providing themselves with the essential necessities of life (food, water, housing, essential medication/medical treatment)[31]. He/she is living at a significant, assessed level of risk and is unable to protect him/herself from that risk due to a physical or mental incapacity.

Incapacity – See also **Capacity.**
- For **Mental Incapacity** see Mental Incapacity and/or Mental Capacity Assessment
- For **Physical Incapacity** see Physical Disability/Incapacity

Incontinent - The loss of ability to control bladder and/or bowel functions[32]. It can be intermittent, acute or chronic.

Indicators of Abuse and/or Neglect[33]- A sign, symptom, or index of abuse or neglect[34]. For the purposes of Adult Protection, this means direct, visual evidence that substantiates that abuse and/or neglect is most likely happening to the Adult Protection client. Evidence can be physical and/or behavioral in nature. See the definitions for Physical and Psychological Harm for specific indicators of abuse and/or neglect. The Adult Protection workers may observe this evidence first hand or may receive reports of indicators from referral and/or collateral sources.

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[27] See *Section 9 (3) (c) of the Adult Protection Act.*
[28] See *Section 5.05 of the Family Court Rules* and *Civil Procedure Rule 6.03 (5).*
[29] Retrieved from MedicineNet.com, http://www.medterms.com/script/mai/art.asp?articlekey=24171, May 27, 2009.
[30] Retrieved from http://www.abramsoncenter.org/PRI/documents/IADL.pdf, May 27, 2009.
[31] See Section 3(b), *Adult Protection Act.*
[32] Retrieved from http://www.medterms.com/script/main/art.asp?articlekey=3963, May 27, 2009.
[33] Adapted from Department of Community Services: Child Protection Services Manual, dated January 1996 and from an insert in the Adult Protection Policy Manual, April 2001 that was adapted from Recognizing Child Abuse: A Guide for the Concerned.
[34] Retrieved from http://www.merriam-webster.com/dictionary/indicate, June 23, 2009.

Indirect Evidence of Abuse or Neglect- Indirect evidence, or circumstantial evidence, is evidence that infers or allows a conclusion to be deduced that abuse and/or neglect has occurred, and/or who caused the abuse and/or neglect. Indirect evidence of abuse or neglect can accumulate into a collection of evidence of abuse and/or neglect where each piece corroborates the other pieces and more strongly supports the inference that abuse and/or neglect has occurred and/or who caused the abuse and/or neglect.

Indirect Evidence of Abuse and/or Neglect in the Context of Adult Protection May Include:

- Suspicious injuries and/or evidence suggesting physical and/or sexual abuse has occurred, for example, bruises or torn and bloody undergarments;
- Untreated physical injuries or illness that suggests medical or overall neglect;
- Preventable injuries suggesting inadequate care or supervision;
- Signs the caregiver lacks adequate knowledge or skill;
- Signs of caregiver substance abuse;
- Observed behaviours of the client which would suggest abuse; see Psychological and Physical Harm; Serious Harm.

Infirmity (Mental or Physical) - An incapacitation of a person's physical or mental ability to protect themselves from the risk factors identified in the *Adult Protection Risk and Mental Capacity Assessment*.

Informed Consent - Is a fundamental legal principle where a person can give informed consent for medical, personal or financial decisions if a person has been given full knowledge of all the risks involved, the probable consequences or implications, as well as other alternatives/options; and the person has the mental capacity to be able to *appreciate and understand* the risks[35]. There are laws that allow another person to give legal consent on behalf of a person where an individual is considered unable to provide informed consent, such as a legally authorized substitute decision maker or guardian of the person[36]. In the context of Adult Protection, under a *Section 7*, informed consent is needed to refer for services, including placement.

***Intake and Inquiry* -** This is the first stage of intervention in Adult Protection. It involves gathering information from the referral source and possible collateral sources to determine whether or not there is compelling evidence (reasonable and probable grounds) to move into the *Assessment* Adult Protection stage of intervention.

Interim Orders - A temporary court order; intended to be of limited duration, usually just until the court has had an opportunity of hearing the full case and make a final order. An interim order is fully enforceable until and unless it is changed by a final order[37].

Least Intrusive – Also known as the 'least restrictive' principle. This core principle of Adult Protection adheres to the value that all interventions should be considered to be the least intrusive/invasive option with regards to a person's autonomy and rights[38].

Low Risk - A client assessed at low risk is *not* living in a *potentially life-threatening* situation. Additionally, if living independently, he/she is not living in a *risk situation where there is a considerable impact on the client's level of independence or standard of living*. There *may* be some risk factors present, however, the client either understands

[35] Retrieved from http://depts.washington.edu/bioethx/topics/consent.html, May 27, 2009.
[36] See *Hospitals Act*, the *Involuntary Psychiatric Treatment Act*, *Powers of Attorney Act*, *Personal Directives Act* and the *Incompetent Persons Act*.
[37] Retrieved from http://www.duhaime.org/LegalDictionary/I/InterimOrder.aspx, May 27, 2009.
[38] Community Care, Parker, Jonathan, Penhale, Bridget, Working with Vulnerable Adults. Routledge, 2007. pp. 45

and appreciates the situation of risk in which he/she is currently living *or* he/she has an appropriate person who has taken supervisory responsibility for him/her and his/her decisions[39]. It is important to note that during the course of an investigation and assessment, an Adult Protection worker may find evidence to suggest that there may be some emotional and/or mental abuse occurring to the client. This would be considered a low risk situation if the client most likely will not suffer serious harm as a result of this abuse and/or neglect or if *he/she understands and appreciates the risks* associated with this abuse and/or neglect and he or she refuses assistance.

Although the client does not meet the criteria for an adult in need of protection, the Adult Protection worker has a professional obligation to provide education and information to him/her and/or his/her caregiver about how they can manage their current situation of risk and what to do if the level of risk increases. Additionally, if the client or his/her substitute decision maker requests that the Adult Protection worker refers for service, the worker will make the referral. However, because the client is not considered an adult in need of protection, he/she would not have priority status on any waiting lists for service or assessments.

Medical Observation Form - Adult Protection uses this form to seek a physician's opinion concerning an adult's physical or mental capacity to protect themselves from the assessed risk, (which involves an assessment of their level of cognitive and/or physical functioning), health status, relevant diagnoses or physical conditions that may be permanent and irreversible and relevant medical history.

Medication, Drug or Physical Restraints – For the purposes of Adult Protection, the inappropriate use of medication(s), drugs and/or physical restraints to restrict the movements of an adult. Any method of medication, drug or physical restraints can be considered dangerous if not monitored by a medical professional[40].

Mental Capacity Assessment - Part of the *Assessment* stage of Adult Protection intervention; conducted as part of the overall Adult Protection Risk and Capacity Assessment. In order to be considered capable to make a specific decision, a person must demonstrate that they *understand* the nature of the decision and have the ability to *appreciate* the consequences of making a choice or not making a choice[41].

The person must be given the opportunity to learn the facts (ie. the assessed risk factors) and then be assessed as to whether they understand and can retain that knowledge and are able to understand the consequences of the decision on his/her own life[42]. Part of the capacity assessment is to assess the client's orientation, registration and recall, which gives the Adult Protection worker a sense of the client's overall cognitive state. The assessment itself is narrative in nature; it is a conversation and a series of questions posed to the client.

Depending on his/her ability to answer the questions, the Adult Protection worker makes a recommendation of whether or not the client has the mental capacity to understand and appreciate the assessed risk factors. Other health professionals may be involved throughout the capacity assessment to provide medical evidence of the client's cognitive functional abilities.

The mental capacity assessment provides a structure to determine and provide evidence that an Adult Protection client is *unable to mentally protect him/herself* from the assessed risk(s) in which he/she is currently living.

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[39] The Adult Protection Risk Continuum was informed by 'Safeguarding Adults': A National Framework of Standards for good practice and outcomes in adult protection work, Association of Directors of Social Services, 2005. pp.22 (Retrieved on December 16, 2008 from http://www.haringey.gov.uk/safeguarding_adults_-_national_framework_of_standards.pdf).

[40] Informed by "Patient Restraints can be Dangerous", US FDA, 1992. Retrieved from http://www.fda.gov/bbs/topics/NEWS/NEW00280.html, May 27, 2009. Also by "Safe Use of Restraints for Medical Management", retrieved from http://www.drugs.com/cg/safe-use-of-restraints-for-medical-management.html, May 27, 2009.

[41] Darzins, Peteris, Molloy, D. William, Strang, David, MD., Capacity to Decide. New Grange Press, 1999.

[42] Retrieved from http://depts.washington.edu/bioethx/topics/consent.html, May 27, 2009.

Mental Cruelty – For the purposes of Adult Protection, actions undertaken toward a vulnerable adult which result in emotional and psychological harm[43]. See Emotional/Psychological Abuse and Psychological and Serious Harm.

Mental Incapacity - Lacking the mental capacity to be able protect oneself from the assessed significant risk factors of self-neglect, abuse and neglect. See Mental Capacity Assessment and Capacity.

Mentally Incompetent - Lacking the mental capacity to be able protect oneself from the assessed significant risk factors of self-neglect, abuse and neglect[44]. See Capacity, Mental Incapacity and Mental Capacity Assessment.

Minister - The Minister responsible for the Administration of the *Adult Protection Act* is the Minister of Health and Wellness.

Mitigating Risk - Means used to reduce, resolve, manage or eliminate risk(s) to the Adult Protection client of self-neglect, abuse and/or neglect.

Moderate Risk - If a client is assessed to be living at moderate risk; *he/she is not currently living in a situation that is potentially life-threatening or at risk of serious harm due to abuse or neglect*. Unlike the designation of low risk, if the client is living independently, *there may be risk factors present that may have a considerable impact on the client's level of independence and standard of living*. This category of risk would also include clients who do not have the mental capacity to protect themselves from considerable risk factors but who have a person who has taken supervisory responsibility for his/her decisions and care. In moderate risk situations, there may be evidence to suggest that there may be some emotional and/or mental abuse occurring to the client. If he/she most likely will not suffer serious harm or he/she has the capacity to understand and appreciate the risks associated with his/her situation of abuse and refuses assistance, this would be considered a moderate risk situation[45].

Although the client does not meet the criteria for an adult in need of protection, the Adult Protection worker has a professional obligation to provide education and information to him/her and/or his/her caregiver about how he or she can manage his/her current situation of risk and what to do if the level of risk increases. Additionally, if the client or his or her legally authorized substitute decision maker requests that the Adult Protection worker refers for service, the worker will make the referral. However, because the client is not considered an adult in need of protection, he or she would not have priority status on any waiting lists for service or assessments.

Neglect - Intentionally or unintentionally not providing the necessary care and/or support to a mentally/physically incapacitated adult, resulting in the health and safety of the adult being at significant risk. (It is important to note that unintentional neglect may occur due to the lack of experience, knowledge, skill and/or ability of the care provider.) Neglect can include denial or not providing the following to an incapacitated adult: sufficient food and/or water (fluids); appropriate clothing; safe shelter/environment; a sanitary environment; proper personal care; necessary medical treatment or care; necessary medications; necessary mobility aids; social contact; and appropriate supervision[46]. See also Physical Harm, Serious Harm.

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[43] See *Section 3(b), Adult Protection Act.*
[44] See *Section 9(3), Adult Protection Act.*
[45] The Adult Protection Risk Continuum was informed by 'Safeguarding Adults': A National Framework of Standards for good practice and outcomes in adult protection work, Association of Directors of Social Services, 2005. pp.22 (Retrieved on December 16, 2008 from http://www.haringey.gov.uk/safeguarding_adults_-_national_framework_of_standards.pdf).
[46] Retrieved from http://www.vchreact.ca/read_neglect.htm, May 27, 2009.

Not Receiving Adequate Care and Attention - Essentially, this term means that an incapacitated individual is being neglected. He/she does not have the mental and/or physical capacity to provide for him/herself the essential necessities of life (food, water, housing, essential medication/medical treatment)[47].

Observation Tools - Tests that are used throughout the Adult Protection risk assessment to assess a person's level of cognitive functioning (i.e. MMSE, MOCA, FAB), functioning in their physical environment, and potential for delirium (CAM). Some of these tests may be conducted by the Adult Protection worker and others are conducted by other health professionals.

Order for Entry - An order[48] which allows Adult Protection to enter an adult's home against his/her and/or his/her caregivers' wishes for the purpose of an assessment.
Section 8 (2): "Where the adult who is being assessed refuses to consent to the assessment or a member of the family of the adult or any person having care or control of the adult interferes with or obstructs the assessment in any way, the Minister may apply to the court for an order authorizing the entry into any building or place by a peace officer, the Minister, a qualified medical practitioner or any person named in the order for the purpose of making the assessment…after making due inquiry and being satisfied that there are reasonable and probable grounds to believe that the person who is being assessed is an adult in need of protection".[49]

Peace Officer - A member of the RCMP, a Police Officer appointed by a Municipality, a Sheriff, a Deputy Sheriff and/or a member of the Military Police[50].

Permanent and Irreversible Condition - A mental or physical condition that is unlikely to improve or respond to treatment and/or medication; to the extent that the adult's mental/physical capacity would be restored to protect him or herself from the assessed risk(s).

Personal Care Decisions- According to the definition in the *Personal Directives Act*; personal care decisions include (but are not limited to) the following areas; health care, nutrition, hydration, shelter, residence, clothing, hygiene, safety, comfort, recreation, social activities, support services and any other personal matter that is prescribed by the regulations of the *Personal Directives Act*.

Personal care decisions are only relevant to Adult Protection *after* an adult is determined to be in need of protection; at this point, the Adult Protection worker must determine if the adult can consent for a referral for services (for example, placement into residential care or home care services, which would be included in the above definition of personal care decisions). If the client is *unable* to consent for a referral for services, the Adult Protection worker determines if there is an appropriate substitute decision maker who is able to consent on behalf of the client.

Personal Directives Act- This *Act* repealed the *Medical Consent Act* in Nova Scotia. In the situation of a person being rendered incapacitated to make a decision him or herself, it allows for three key things; to:

- appoint someone (delegate) to make personal care decisions
- set out instructions or general principles about what or how personal care decisions should be made
- create a hierarchy of statutory substitute decision-makers for (1) health care (2) placement in a continuing care home (3) home care services, if there is no one appointed or no instructions to determine the wishes of the person who is incapacitated.

[47] See *Section 3(b)(ii), Adult Protection Act.*
[48] See *Section 8* of the *Adult Protection Act.*
[49] *See Section 8 of the Adult Protection Act.*
[50] See *Section 15, Adult Protection Act.*

This *Act* has particular importance for Adult Protection after the Adult Protection worker has determined through the Adult Protection Risk and Capacity Assessment that an adult is in need of protection and requires a referral for services. In the situation where the person is unable to provide his/her own consent for a referral for service(s) and has a directive indicating a delegate, or in the case where there is not a directive, a statutory decision maker, the Adult Protection worker will obtain consent for a referral for service(s) from this person. This information is provided to the Care Coordinator and/or service providers through the referral process. Additionally, the Adult Protection worker needs to establish if the client had any expressed wishes (in a directive or verbally) about the recommended services. If there are particular wishes that an Adult Protection worker and/or the Care Coordinator and/or service provider are able to accommodate, they will do so. If there are particular wishes that the Adult Protection worker cannot accommodate (due to lack of resources or the potential to create inequalities in the health system, for example), the delegate, substitute decision maker and the Adult Protection supervisor will be informed.

Physical Abuse - The non-accidental physical injury of a mentally or physically incapacitated adult inflicted by another person. Injuries may be caused by such behaviors as slapping, pushing, grabbing, hitting, hitting with objects, scalding, burning, rough handling, kicking, pinching, choking, inappropriate use of physical restraints and/or force feeding. The inappropriate use of medication (including over-medicating, under-medicating and withholding medications) and giving or providing intoxicants/substances that would pose serious risk of harm to the adult would also be considered physically abusive behaviors[51]. See also Physical Harm, Serious Harm.

Physical Disability/Incapacity - A permanent, irreversible physical impairment which results in an adult's incapacity to protect him or herself from the significant assessed risk(s) of self-neglect, abuse and neglect.

Physical Harm- The harm experienced by a person as a result of physical and/or sexual abuse or neglect. Indicators of physical harm may include: bruises, burns, bumps, cuts, lacerations, fractures, broken bones, marks, infections, internal injuries, bed sores, scars, punctured ear drums, tenderness, black eye(s), broken teeth, scratches, bite marks, grip marks, swelling, difficulty walking or sitting, hypothermia (lowered body temperature, blue lips, cold hands, shivering), Any unusual pattern or location of injury such as clustered bruises or welts, or bruising along the inner arm or thigh, or any other soft body parts such as abdomen, buttocks may be as a result of physical and/or sexual abuse.[52] See also Physical Abuse, Sexual Abuse, Neglect, and Serious Harm.

Predictors of Abuse and/or Neglect- On the basis of observation, experience, or scientific reason, to be able to foretell that abuse and/or neglect will most likely occur.[53] Predictors of abuse and/or neglect are not used in assessing whether or not an adult is in need of protection. An Adult Protection worker assesses *indicators* of abuse and/or neglect to determine if the adult is *currently* in need of protection. Adult Protection does not have the authority to intervene if the client potentially may need to be protected in the future. See Indicators of Abuse and/or Neglect.

Premises - The place where an adult is residing[54]. In the circumstance of homelessness, the individual's premises would be considered to be wherever the adult is living at the time of the referral.

Principles of Fundamental Justice - Fundamental justice is a legal term that describes how a state agency intervenes with its' citizens in matters where their fundamental rights as dictated by the *Charter of Rights and Freedoms* are secondary to the laws or principles of 'significant societal consensus' such as providing protection from risk if the individual does not have the ability to protect himself or herself.[55] Therefore, individuals who are subject to

[51] Retrieved from http://www.vchreact.ca/read_physical.htm, May 27, 2009.
[52] Retrieved from http://www.vchreact.ca/recognize_abuse.htm#physical, June 17, 2009.
[53] Retrieved from http://www.merriam-webster.com/dictionary/predictors, June 23, 2009.
[54] See *Section 13, Adult Protection Act.*
[55] Fundamental Justice is a term in Canadian administrative law that signifies the basic procedural rights that are afforded anyone facing an adjudicative process or procedure that effects fundamental rights. Retrieved from http://knowledgerush.com/kr/encyclopedia/fundamental_justice.

any adult protection intervention, whether through investigation, assessment, removal or detainment are to be treated fairly and with due process. They are entitled to an opportunity to be heard, to legal representation and to challenge the findings of Adult Protection Services and/or other professionals involved with the adult protection intervention.

Protective Intervention Order- An order of the court [56]that:

(a) requires a person believed to be a source of danger to the Adult Protection client to leave the premises where the adult in need of protection resides unless that person is the owner or lessee of the premises,
(b) prohibits or limits that person from contact or association with the adult in need of protection,
(c) requires that person to pay maintenance for the adult in need of protection in the same manner and to the same extent as that person could be required to pay pursuant to the *Family Maintenance Act*.

Protection Needs- These needs are taken from the *Adult Protection Risk and Capacity Assessment*. The Adult Protection worker assesses the specific situation of risk of the Adult Protection client and articulates what the client's needs are in relation to the risks in which they are living. Potential solutions (ie. referral for services) are brought forward by the Adult Protection worker in the care plan. The care plan is written by the Adult Protection worker and stored in the client file for a *Section 7.* For a *Section 9 or 10,* the care plan (as written by the Adult Protection worker) is included in the application to the court. The court uses the care plan to formulate a court order directing various actions that must take place to satisfy the protection needs of the client. The care plan and the court order are stored in the client's file. The follow up plan assesses whether or not the client's protection needs have been met.

Psychological Harm - Significant psychological trauma or impact on a person's mental state that is evidenced by significant changes in behavior or patterns of behavior that is likely the result of mental cruelty, emotional and sexual abuse. Possible indicators of mental or emotional abuse that may be demonstrated by the vulnerable adult:

- appears ashamed
- withdrawn, passive
- appears to recoil (flinching, cringing)
- fearful, anxious
- depressed, hopeless, helpless
- agitated
- tearfulness
- restricted access to: telephone, food, bathroom facilities, family, service providers, not permitted to have friends, visitors, go to church or outings[57]

See also Serious Harm, Mental Cruelty and Emotional Abuse.

Public Trustee - The Office of the Public Trustee is empowered by the *Public Trustee Act* to:

- manage the estates of living persons who need services of a trustee, guardian, attorney or other fiduciary not readily available in the private sector to such living persons;
- administer estates of deceased persons and has standing to apply for grant of administration or administration with will annexed in any case where no grant of probate or administration has been issued;
- may consent to medical or surgical treatment of a mentally incompetent hospital patient when consent cannot be obtained from the patient's guardian, spouse or next-of-kin;
- may consent for personal care decisions on behalf of a client, as a statutory decision maker (of last resort);
- may act as litigation guardian or representative in litigation for minor, incompetent, deceased, missing or unascertained litigants in respect of whom a court makes representation orders.[58]

See ***Sections 9(4) and 13 of the Adult Protection Act***, ***Personal Directives Act, Hospitals Act, Involuntary Psychiatric Treatment Act, Public Trustee Act.***

[56] See *Section 9(3)(d),Adult Protection Act.*
[57] Retrieved from http://www.vchreact.ca/recognize_abuse.htm#mental, May 27, 2009.
[58] Retrieved from http://gov.ns.ca/just/public_trustee.asp, January 7, 2009.

Qualified Medical Practitioner- In Nova Scotia, a 'qualified medical practitioner' is defined by the ***Nova Scotia Medical Act (1996)***. *Section 3* states:

"The words "duly qualified medical practitioner", "duly qualified practitioner", "legally qualified medical practitioner", "legally qualified physician", "physician" or any like words or expressions implying a person recognized by law as a medical practitioner or member of the medical profession in the Province, when used in any regulation, rule, order or by-law made pursuant to an Act of the Legislature enacted or made before, at or after the coming into force of this Act, or when used in any public document, includes a person registered in the Medical Register, Temporary Register, Defined Register or the Medical Education Register who holds a license."

Reasonable and Probable Grounds (see also Balance of Probabilities) - This standard must be met at the *Intake and Inquiry* Adult Protection stage of intervention in order to move into the *Assessment* stage of intervention. Additionally, once the risk and capacity assessments have been conducted, the Adult Protection worker must demonstrate that there are reasonable and probable grounds that an adult is in need of protection. At that point, the Adult Protection worker either refers directly for services under a ***Section 7*** or proceeds to court under a ***Section 9 or 10***. This standard is met if the information gathered suggests that an adult is more likely to meet the criteria of an adult in need of protection than not[59]. Effectively, the standard is satisfied if there is greater than 50 percent chance that the proposition is true.

Renewal of an Order - The court authorized extension of an existing Adult Protection order[60]. *Section 9 (6); "An application to vary, renew or terminate an order made pursuant to subsection (3) may be made by the Minister, the adult in need of protection or an interested person on his behalf, or a person named in a protective intervention order upon notice of at least ten days to the parties affected which notice may not be given in respect of a protective intervention order earlier than three months after the date of the order".*

Risk Factors – there are three types of risk factors for the purposes of the Adult Protection risk assessment:

1. **Personal**- diagnosis, cognitive concerns and related behaviors, physical health, abilities and impairments to care for oneself, personal care, continence, medication management.
2. **Physical Environment** - demands on individual, housing issues (e.g. Fire concerns, clutter, ambulation), household care, in-home supports, physical environment concerns
3. **Social** - concerns about caregiver, family, other individuals with access, isolation, abuse or neglect

Risk Assessment- The assessment that must be completed during the *Assessment* stage of an Adult Protection intervention to determine; if risk factors for self-neglect, abuse and neglect are present and the level of risk at which an adult is living. The assessment process is documented in the *Adult Protection Risk and Capacity Assessment*.

Response Time – The time frame in which Adult Protection workers are required to respond to move from Intake (referral) to Inquiry; from Inquiry to Assessment and from Assessment to Implementing the Care Plan. Responses to an Intake/Inquiry referral involve contacting a referral or collateral source by phone. Response times for Assessment involve the Adult Protection worker visiting with the Adult Protection client. See the policy manual for specific response time standards for Intake/Inquiry, Assessment and Implementing the Care Plan.

***Section 7 Adult Protection Act* - In order to meet the criteria for a Section 7, the Adult Protection worker must demonstrate that the client:**

1. meets the criteria of an adult in need of protection (is living at significant risk, is physically or mentally

[59] Retrieved from http://dictionary.law.com/definition2.asp?selected=1586, May 27, 2009.
[60] See *Section 9 of the Adult Protection Act.*

incapacitated to protect themselves from the risk and have a permanent, irreversible condition), *and*

2. has the mental capacity to consent for services, *or*
3. has an appropriate, willing, legally authorized substitute decision maker who is able to consent for services.

If these conditions are met, than an Adult Protection worker shall assist the client by referring them for services which will meet their protection needs.

Section 9 Adult Protection Act- In order to meet the criteria for a *Section 9(3)*, the Adult Protection worker must demonstrate that the client:

1. meets the criteria of an adult in need of protection and;
2. does not have a legally authorized decision maker willing and able to provide consent for service; or does not have a substitute decision maker acting in the best interest of the client; or
3. is experiencing serious physical and/or psychological harm as a result of abuse or neglect.

Section 10(1) Adult Protection Act - Adult Protection has the authority to immediately remove a person from their premises if the client:

1. meets the criteria of an adult in need of protection; and
2. does not appear to have a legally authorized substitute decision maker willing and able to provide consent for service; and
3. his or her life is in imminent danger due to living in an extremely high risk situation (based on reasonable and probable grounds).

Section 13 Adult Protection Act - Allows for an Adult Protection worker to refer to the Office of the Public Trustee to take over temporary management of the Adult Protection client's estate when the client has been removed from his/her premises. See *Public Trustee* above.

Self- Neglect- Self-neglect occurs when a mentally or physically incapacitated adult is not able to attend to or arrange care and/or services for their essential self-care needs; such as food, water, housing, and life-sustaining medication/medical treatment. His or her life would be considered to be under threat as he/she is living at significant risk. See also Adequate Level of Care, Significant Risk and Adult in Need of Protection.

Serious Harm- This is the threshold for an Adult Protection intervention for a physically or mentally incapacitated adult who is experiencing abuse and/or neglect. Serious harm is reflected by the level of *psychological and physical harm* experienced by an individual. The *Adult Protection Risk Continuum* guides the Adult Protection worker to determine whether or not to intervene under the *Adult Protection Act* and addresses the issue of the threshold of serious harm. See also Psychological Harm, Physical Harm, Physical Abuse, Sexual Abuse, Mental Cruelty and Emotional Abuse.

Sexual Abuse - Any form of unwanted and/or non-consensual sexual behavior or contact towards a mentally or physically incapacitated adult[61]. This can include fondling, touching, sexual intercourse, oral sex, exposure, exposure to pornography, using the adult for pornographic material, prostitution, and/or verbally explicit or suggestive sexual behavior. This also includes any act that uses a mentally/physically incapacitated adult for the purpose of another person's sexual gratification[62]. See also Physical Harm and Serious Harm.

Significant Risk – As determined by the Adult Protection Risk and Capacity Assessment and by the professional judgment of the Adult Protection worker. Significant risk would include individuals living at both extremely high risk and high risk:

[61] See *Section 3(b)(i), Adult Protection Act.*

[62] Retrieved from http://www.vchreact.ca/read_sexual.htm, May 27, 2009.

1. **Extremely High Risk**- an incapacitated adult's life is considered to be in imminent danger. One or more of the following factors would be present:

- Vital caretaking responsibilities cannot or will not be undertaken
- Immediate medical attention/medical treatment is needed to sustain the life of the individual
- Life sustaining medication is not being administered
- The person has no control over aspects of his/her immediate environment that could lead to a life-threatening situation; for example, exhibiting dangerous behaviors such as wandering in a dangerous physical environment, such as busy highways, forest, etc.
- There is evidence to suggest that the client is experiencing serious psychological and/or physical harm from abuse and/or neglect.

2. **High Risk**- an incapacitated client is currently living in a potentially life-threatening situation or is at risk of serious harm due to abuse or neglect. One or more of the following factors would be present:

- Vital caretaking responsibilities *will be* withdrawn in the immediate future or are currently unavailable
- Life sustaining medication or medical treatment is not being administered appropriately
- The person has little or no control over aspects of the immediate environment that could lead to a life-threatening situation; for example, exhibiting potentially dangerous behaviors such as wandering in a physical environment with a high level of risk, such as busy highways or heavily forested areas, or they may not be able to evacuate their residence, in case of a fire, for example
- The majority of social support systems and relationships cannot or will not be sustained
- There is an inability to carry out personal care routines
- There is evidence to suggest that serious psychological and/or physical harm is most likely happening to the person as a result of abuse or neglect.

Substitute Decision Maker (SDM) – A person who has the legal authority to make personal care decisions for a person who does not have the mental capacity to make these decisions on his/her own behalf[63]. For the purposes of the *Personal Directives Act*, an SDM may be a delegate (authorized through a written personal directive) or a statutory decision maker for health care decisions (when no directive exists and an SDM is chosen from a hierarchy).

Variation or Termination of an Order - When an existing Adult Protection order is varied or terminated by the court through an Adult Protection worker, Adult Protection client or interested party application[64]. *Section 9 (6); "An application to vary, renew or terminate an order made pursuant to subsection (3) may be made by the Minister, the adult in need of protection or an interested person on his behalf, or a person named in a protective intervention order upon notice of at least ten days to the parties affected which notice may not be given in respect of a protective intervention order earlier than three months after the date of the order".*

Vulnerability - Lacking the mental or physical capacity to protect oneself from self-neglect, abuse and/or neglect.

Welfare of Adult Paramount – This phrase means that the protection of the adult is the greatest consideration for Adult Protection interventions and court decisions[65]. See Best Interests.

[63] See the *Personal Directives Act.*
[64] See *Section 9(6), Adult Protection Act.*
[65] See *Section 12, Adult Protection Act.*

ADULT PROTECTION REFERRAL TO THE PUBLIC TRUSTEE

email:
PublicTrustee@novascotia.ca
Courier

(Adult Protection Client)

Public Trustee of Nova Scotia
PO Box 685
5670 Spring Garden Rd, Suite 405
Halifax, NS B3J 2T3

(Address Prior to Placement)

Dear Ms. Theriault:

The above named has been removed from his/her home address on _____
(date)

and placed at _____ **via:**
(facility name, address and phone number)

- □ **Adult Protection court order under Section 9(3) (attached)**
- □ **Adult Protection Act Section 10(i) Authorization (attached) (Section 10 court order, if granted, will be forwarded; if not granted, you will be notified)**
- □ **Interim court order**

As the person is under an Adult Protection Order and has no legal guardian, no appointed attorney under an Enduring Power of Attorney or appropriate family member, a referral to your service under the Public Trustee Act is being made.

Attached is the following information to assist you in providing service:

- □ Section 13 Notice
- □ Adult Protection Court Order under Section 9(3)
- □ Adult Protection Section 10(i) Authorization
- □ Interim Order
- □ Public Trustee Information Sheet
- □ Adult Protection Intake Form
- □ Medical Observation Form
- □ Protective Intervention Order
- □ _____

Has the property been secured? □ Yes □ No _____

Who has the keys or access to property? Contact person and phone # _____

Police have been told the property is vacant? □ Yes □ No
Contact person and phone # _____

Were assets (if any) including money removed from home for safekeeping? □ Yes □ No

Description: _____

_____

Contact person and phone # _____

Has any other agency such as Home Care/Department of Community Services been involved? □ Yes □ No

Contact person and phone # _____

Additional comments by Adult Protection Worker that may assist the Public Trustee:

_____

_____

Should you require further information, please contact the undersigned:

_____

Adult Protection Worker Telephone Date

NOTE: This form and appropriate information is to be faxed or sent by courier to the Public Trustee within 24 hours (same day if possible) of the person being removed.

NOVA SCOTIA

Public Trustee
Health Care Decisions Division
PTO File Number (OFFICE USE ONLY):

P.O. Box 685, Halifax, N.S. B3J 2T3
Tel (902) 424-4454
PublicTrustee@novascotia.ca

Request for Decision
HEALTH CARE
Pursuant to the *Personal Directives Act*

Please complete in full.
Incomplete forms will cause delays.

SECTION 1 CLIENT INFORMATION

Last Name:	First Name:	Middle Name:
Date of Birth: dd/mm/yyyy / /	Health Card Number: I I I I I I I I I I	Gender: Male ❑ Female ❑
Address:		
City/Town: Nova Scotia		Postal Code:
Family Physician:		Phone:

SECTION 2 ESTABLISHING PUBLIC TRUSTEE JURISDICTION

Pursuant to the *Personal Directives Act*, the Public Trustee must establish jurisdiction to have authority to make a decision for a person who lacks capacity to make a decision related to health care, home care or placement to a continuing care home.

Has this person been found incapable to make this decision? Yes ❑ No ❑

A COMPLETED FORM 1 - *ASSESSMENT OF CAPACITY TO MAKE DECISIONS ABOUT A PERSONAL MATTER* MUST ACCOMPANY THIS REQUEST.

Is the person's incapacity permanent? Yes ❑ No ❑ Unknown ❑

Are there any known relatives or is there a delegate named in a Personal Directive? Yes ❑ No ❑

If Yes, Name: Phone: Address: Reasons why relative or delegate is not making the decision:	If No, what efforts have been made to find a nearest relative? **(Attach completed SDM Identification form (DoH, DCS, DHA))**

Please note that consent given by the Public Trustee under the *Personal Directives Act* does not include a commitment for payment for any associated costs that may be required. Arranging for payment is the responsibility of the person making the request.

Who is managing finances? Name: Phone:

SECTION 3 PROPOSED HEALTH CARE ❑Urgent (Decision required within 48 hrs)

"health care" means any examination, procedure, service or treatment that is done for a therapeutic, preventative, palliative, diagnostic or other health related purpose, and includes a course of health care or a care plan (*Personal Directives Act).*

CHECK ALL THAT APPLY:

Therapy ❑	Care Plan ❑	Respite Care ❑	Dental Care ❑	Health Assessment ❑
Medication(s) ❑	Diagnostic test ❑	Palliative Care ❑	Immunization ❑	Renewal * ❑

SECTION 4 REFERRAL INFORMATION

Dept of Health ❑ Dept of Community Services ❑ Other(specify) ❑ _____

Requested by (print):		Title:
Phone:		Email:
Address:		District Health Authority:
City/Town:	Province: Nova Scotia	Postal Code:
Signature:		Date:

Information on *Personal Directives Act* and PTO Forms can be found at http://www.gov.ns.ca/just/pto

***A Renewal means a request to continue health care to which the Public Trustee has previously consented and is currently being provided.**

CLIENT:	DATE:

SECTION 5 KNOWN WISHES, VALUES AND BELIEFS

Is there any information about the ethnic, cultural or religious background? If so, please describe. Yes ❑ No ❑

Does the person have a Personal Directive? If yes, please attach. Yes ❑ No ❑ Unknown ❑

To the best of your knowledge, does the person have any prior capable wishes, values and beliefs about the proposed health care? If Yes, please describe. Yes ❑ No ❑

SECTION 6 PROPOSED HEALTH CARE

The Public Trustee will consider the proposed medical treatment based on the 'reasonable person standard'; that is, as a reasonable person would do in the same or similar circumstances after receiving and considering the information that a reasonable person would wish to have in making a decision to consent or to refuse consent in order to protect his or her best interests.

Diagnosis and/or presenting health issues. **Attach client assessment from the health professional recommending the health care.**

Other medical problems:

Does the client have any allergies?

Describe the proposed health care. (If the request is for the client's individual care plan, please briefly summarize the interventions and include a copy of the actual care plan. Please indicate to a maximum of 12 months, the length of consent recommended.)

Benefit – What will it do for the client's condition?

If known to be received in the past, what did it do for the client's condition?

Given the client's health condition at this time, what are the material effects, risks, and /or side effects that are most relevant to this client?

Are there any alternatives to this health care that could be used to address the client's health need?

What would happen if the health care is not provided? (consequences of refusal)

PLEASE COMPLETE FORM FOR EACH MEDICATION IF APPLICABLE TO THIS REQUEST FOR DECISION AND ATTACH A COPY OF THE PHYSICIAN'S ORDER.

CLIENT:			**DATE:**
Name of Medication	Dose, Frequency, Route, Duration		Purpose
Material Side Effects			
Material Risks			
Consequences of Refusal			
Alternatives? Will it interact with client's other medications?		Previously taken? Yes ❑ No ❑ Unknown ❑ If yes, effect?	
Name of Medication	Dose, Frequency, Route, Duration		Purpose
Material Side Effects			
Material Risks			
Consequences of Refusal			
Alternatives? Will it interact with client's other medications?		Previously taken? Yes ❑ No ❑ Unknown ❑ If yes, effect?	
Name of Medication	Dose, Frequency, Route, Duration		Purpose
Material Side Effects			
Material Risks			
Consequences of Refusal			
Alternatives? Will it interact with client's other medications?		Previously taken? Yes ❑ No ❑ Unknown ❑ If yes, effect?	
Name of Medication	Dose, Frequency, Route, Duration		Purpose
Material Side Effects			
Material Risks			
Consequences of Refusal			
Alternatives? Will it interact with client's other medications?		Previously taken? Yes ❑ No ❑ Unknown ❑ If yes, effect?	
Name of Medication	Dose, Frequency, Route, Duration		Purpose
Material Side Effects			
Material Risks			
Consequences of Refusal			
Alternatives? Will it interact with client's other medications?		Previously taken? Yes ❑ No ❑ Unknown ❑ If yes, effect?	

NOVA SCOTIA
Public Trustee
Health Care Decisions Division
PTO File Number (OFFICE USE ONLY):

P.O. Box 685, Halifax, N.S. B3J 2T3
Tel (902) 424-4454
PublicTrustee@novascotia.ca

Request for Decision

HOME CARE

Pursuant to the *Personal Directives Act*

Please complete in full.

Incomplete forms will cause delays. Attach additional pages, as required.

SECTION 1	**CLIENT INFORMATION**	
Last Name:	First Name:	Middle Name:
Date of Birth: dd/mm/yyyy / /	Health Card Number: I I I I I I I I I I	Gender: Male ❑ Female ❑
Address:		
City/Town: Nova Scotia		Postal Code:
Family Physician:		Phone:

SECTION 2 ESTABLISHING PUBLIC TRUSTEE JURISDICTION

Pursuant to the *Personal Directives Act*, the Public Trustee must establish jurisdiction to have authority to make a decision for a person who lacks capacity to make a decision related to health care, home care or placement to a continuing care home.

Has this person been found incapable to make this decision? Yes ❑ No ❑

A COMPLETED FORM 1 - *ASSESSMENT OF CAPACITY TO MAKE DECISIONS ABOUT A PERSONAL MATTER* MUST ACCOMPANY THIS REQUEST.

Is the person's incapacity permanent? Yes ❑ No ❑ Unknown ❑

Are there any relatives or is there a delegate named in a Personal Directive? Yes ❑ No ❑

If Yes, Name: Phone: Address: Reasons why relative or delegate is not making the decision:	If No, what efforts have been made to find a nearest relative? **(Attach completed SDM Identification form (DoH, DCS, DHA))**

Please note that consent given by the Public Trustee under the *Personal Directives Act* does not include a commitment for payment for any associated costs that may be required. Arranging for payment is the responsibility of the person making the request.

Who is managing finances? Name: Phone:

SECTION 3 PROPOSED HOME CARE ❑Urgent (Decision required within 48 hrs)

(Check all that apply)	Acute Home Care ❑	Home Support ❑	Nursing Services ❑
Home Oxygen ❑	Palliative Care ❑	Other (specify) _____ ❑	
Home Care Agency:	Contact:		Phone:
City/Town:			District Health Authority:

SECTION 4 REFERRAL INFORMATION

Dept of Health ❑ Dept of Community Services ❑ Other(specify) ❑ _____

Requested by (print):	Title:
Address:	District Health Authority:
City/Town: Nova Scotia	Postal Code:
Phone:	Email:
Signature:	Date:

Information on *Personal Directives Act* and PTO Forms can be found at http://www.gov.ns.ca/just/pto

CLIENT NAME:	DATE:

SECTION 5 KNOWN WISHES, VALUES AND BELIEFS

Is there any information about the ethnic, cultural or religious background? If so, please describe. Yes ❑ No ❑

Does the person have a Personal Directive? If yes, please attach. Yes ❑ No ❑ Unknown ❑

To the best of your knowledge, does the person have any prior capable wishes, values and beliefs about the proposed home care? If Yes, please describe.

Yes ❑ No ❑

SECTION 6 PROPOSED HOME CARE

The Public Trustee will consider the proposed home care based on the 'reasonable person standard'; that is, as a reasonable person would do in the same or similar circumstances after receiving and considering the information that a reasonable person would wish to have in making a decision to consent or to refuse consent in order to protect his or her best interests.

Describe client's home care need(s). **Attach client assessment from the health professional recommending the home care.**

Proposed home care - please describe:

How will this benefit the client?

Has the client had this home care in the past? If so, what were the results? Yes ❑ No ❑ Unknown ❑

Do you anticipate any variations or adjustments that may be needed to the proposed home care? Describe.

Are there any alternatives to this home care that could be used to address the client's need?

What would happen if the home care is not provided? (consequences of refusal)

PLEASE COMPLETE FORM FOR EACH MEDICATION IF APPLICABLE TO THIS REQUEST FOR DECISION AND ATTACH A COPY OF THE PHYSICIAN'S ORDER.

CLIENT NAME:		**DATE:**
Name of Medication	Dose, Frequency, Route, Duration	Purpose
Material Side Effects		
Material Risks		
Consequences of Refusal		
Alternatives? Will it interact with client's other medications?	Previously taken? Yes ❑ No ❑ Unknown ❑ If yes, effect?	
Name of Medication	Dose, Frequency, Route, Duration	Purpose
Material Side Effects		
Material Risks		
Consequences of Refusal		
Alternatives? Will it interact with client's other medications?	Previously taken? Yes ❑ No ❑ Unknown ❑ If yes, effect?	
Name of Medication	Dose, Frequency, Route, Duration	Purpose
Material Side Effects		
Material Risks		
Consequences of Refusal		
Alternatives? Will it interact with client's other medications?	Previously taken? Yes ❑ No ❑ Unknown ❑ If yes, effect?	
Name of Medication	Dose, Frequency, Route, Duration	Purpose
Material Side Effects		
Material Risks		
Consequences of Refusal		
Alternatives? Will it interact with client's other medications?	Previously taken? Yes ❑ No ❑ Unknown ❑ If yes, effect?	
Name of Medication	Dose, Frequency, Route, Duration	Purpose
Material Side Effects		
Material Risks		
Consequences of Refusal		
Alternatives? Will it interact with client's other medications?	Previously taken? Yes ❑ No ❑ Unknown ❑ If yes, effect?	

NOVA SCOTIA

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Tel (902) 424-4454
PublicTrustee@novascotia.ca

Request for Decision
PLACEMENT
To a Continuing Care Home
Pursuant to the *Personal Directives Act*

Please complete in full
Incomplete or illegible forms will cause delays. Attach additional pages, as required.

SECTION 1	**CLIENT INFORMATION**	
Last Name:	First Name:	Middle Name:
Date of Birth: dd/mm/yyyy / /	Health Card Number: I I I I I I I I I I	Gender: Male ❑ Female ❑
Address:		
City/Town Nova Scotia		Postal Code:
Family Physician:		Phone:

SECTION 2 ESTABLISHING PUBLIC TRUSTEE JURISDICTION

Pursuant to the *Personal Directives Act*, the Public Trustee must establish jurisdiction to have authority to make a decision for a person who lacks capacity to make a decision related to health care, home care or placement to a continuing care home.

Has this person been found incapable to make this decision? Yes ❑ No ❑

A COMPLETED FORM 1 - *ASSESSMENT OF CAPACITY TO MAKE DECISIONS ABOUT A PERSONAL MATTER* MUST ACCOMPANY THIS REQUEST.

Is the person's incapacity permanent? Yes ❑ No ❑ Unknown ❑

Are there any known relatives or is there a delegate named in a Personal Directive? Yes ❑ No ❑

If Yes, Name: Phone: Address: Reasons why relative or delegate is not making the decision:	If No, what efforts have been made to find a nearest relative? **(Attach completed SDM Identification form (DoH, DCS, DHA))**

Please note that consent given by the Public Trustee under the *Personal Directives Act* does not include a commitment for payment for any associated costs that may be required. Arranging for payment is the responsibility of the person making the request.

Who is managing finances? Name: Phone:

SECTION 3 PROPOSED PLACEMENT OPTION ❑ Urgent (Decision required within 48 hrs)

A continuing care home means any facility licensed under the *Homes for Special Care Act* or any facility for which a resident may be approved for admission by the Department of Health or Department of Community Services. PDA s.2(c)

Adult Residential Centre ❑	Group Home ❑	Regional Rehab Centre ❑
Community Based Option ❑	Nursing Home ❑	Residential Care Facility ❑
Developmental Residence ❑	Intra-facility transfer ❑	Transfer to another continuing care home ❑

SECTION 4 REFERRAL INFORMATION

Department of Health ❑ Department of Community Services ❑

Requested by (print):	Title:
Address:	District Health Authority:
City/Town: Nova Scotia	Postal Code:
Phone:	Email:
Signature:	Date:

Information on *Personal Directives Act* and PTO Forms can be found at http://www.gov.ns.ca/just/pto

CLIENT:	DATE:

SECTION 5 KNOWN WISHES, VALUES AND BELIEFS

Does the person have a Personal Directive? If yes, please attach. Yes ❑ No ❑ Unknown ❑

Is there any information about the cultural, ethnic or religious background? If so, please describe. Yes ❑ No ❑

Does the person have any prior capable wishes, values and beliefs about the proposed placement? If yes, describe.
Yes ❑ No ❑ Unknown ❑

SECTION 6 PROPOSED PLACEMENT

The Public Trustee will consider the proposed placement based on the 'reasonable person standard'; that is, as a reasonable person would do in the same or similar circumstances after receiving and considering the information that a reasonable person would wish to have in making a decision to consent or to refuse consent in order to protect his or her best interests.

Why does this person require admission / transfer to a continuing care home? **Please attach client assessment and classification form.**

How will this admission impact on the person's quality of life? (What are the benefits? What is the risk of negative consequences?)

What are the consequences of refusing consent to the admission or transfer?

Have less restrictive alternatives to addressing the person's needs been explored? (e.g. Home care, respite care) Describe.

Does the person have any specific needs that may require special consideration? (e.g. language, dementia, challenging behaviour) Describe.

Will the person be placed in the first available suitable bed? Yes ❑ No ❑

Are there continuing care homes in the person's home community that can meet his/her care needs and for which a transfer can be requested? If yes, please list. Yes ❑ No ❑

LIVING ADULT ESTATE QUESTIONNAIRE

Re: _____
Family Name *Given Name(s)* *Maiden Name (if applicable)*

Address: _____

Landlord's Name (if applicable) _____

Now residing or held "in charge" by:_____

Telephone No.:_____ Social Insurance No.:_____Health Card No.:_____

Date of Birth:_____Place: _____ Age:___

Is this individual a member of the Assembly of First Nations? ____ Yes ____ No

Did this individual attend an Indian Residential School? ____ Yes _ No

If this individual attended an Indian Residential School, please identify the name and address of the school and the years of attendance: _____

_____

Marital Status:_____ Name of Spouse: _____

Address of Spouse: _____

NEXT OF KIN	**Address & Phone Number**	**Relationship**

CHILDREN	**Address & Phone Number**	**Date of Birth**

OTHER FAMILY MEMBERS	**Address & Phone Number**	**Relationship**

INFORMANTS/ CONTACTS	**Address & Phone Number**

PHYSICIANS	**Name**	**Address**	**Phone Number:**

Family Doctor: _____

Attending Doctor: _____

PROPOSED GUARDIANS:

Of Estate (to manage Finances): **PUBLIC TRUSTEE**

Of Person (to manage Person: _____

_____

INCOME	**Per Month**
Old Age Pension	$
Canada Pension Plan	$
Social Assistance	$
Veterans Affairs	$

Investments $
Superannuation $
Other $

REAL PROPERTY **Address** **Estimated Value**

Residence: (1)_____ $

Other: (2)_____ $

(3)_____ $

PERSONAL PROPERTY **Estimated Value**

Household Furniture and Personal Effects:_____
_____
_____ $

Motor Vehicle(s):_____ $
Make *Model* *Present Location*
_____ $
Make *Model* *Present Location*

Bank Accounts: (1) _____ $
(2)_____ $
(3)_____ $

Safety Deposit box No._____ Located at: _____

Stocks, Bonds, Debentures: _____
_____
_____ $

Business Assets: _____
_____ $

Life Insurance: _____ $

Prepaid Funeral: ___YES ___ NO Funeral Home: _____

Burial Plot: ___YES ___NO Cemetery and Location: _____

Last Will and Testament: ___YES ___NO ___ UNKNOWN

If Yes, name and address of person or business holding Last Will and Testament:_____
_____

DEBTS:

Mortgages/Loans/Credit Cards/etc. _____ Account Numbers_____ Balance
_____
_____
_____
_____
_____

Current Monthly Expenses and Arrears (outline company name and account no.): Balance

Rent: _____ $
Fuel: _____ $
Electric Power: _____ $
Telephone: _____ $

Housekeeper or Care Givers: _____ $
_____ $
_____ $

(Provide Name(s) and Contact Information for Care-giver(s))

Cable: _____ $
Other: _____ $
(Describe)

ADDITIONAL INFORMATION (attach a separate sheet if necessary):

_____
_____
_____
_____
_____

CHECKLIST COMPLETED BY:

Name: _____

Telephone Number: _____

Address: _____

Date completed: _____

Appendix E: Department of Health and Wellness Directives

The following are directives that *must* be adhered to according to Nova Scotia Department of Health and Wellness policy.

Links:

- ***Department of Health and Wellness Guideline: Verbal Disclosure of Clients' Personal Information*** (http://iweb.health.gov.ns.ca/files/policies/Verbal_Disclosure_Guidelines.pdf)
- ***Department of Health and Wellness Guideline: Records Management Guidelines for E-Mail Use*** (http://iweb.health.gov.ns.ca/files/policies/Guidelines_Email_use.pdf)
- ***Department of Health and Wellness Guideline: Transmission of Confidential Information by E-Mail***
  (http://iweb.health.gov.ns.ca/files/policies/E-mail_fax_guidelines.pdf)
- ***Department of Health and Wellness Policy: Preventing and Managing an Information Breach*** (http://iweb.health.gov.ns.ca/files/policies/PreventingandManagingaPrivacyBreach.pdf)
- ***Department of Health and Wellness Policy: Passwords on PDAs and Blackberry Devices***
  (http://iweb.health.gov.ns.ca/files/policies/BlackBerry_PDA_Password_Requirements.pdf)

Appendix F: Links to Codes of Ethics

All registered social workers and registered nurses must comply with their codes of ethics.

Nova Scotia Association of Social Workers' Code of Ethics:

http://www.nsasw.org/inner.php?id=74

Nova Scotia Registered Nurses Code of Ethics:

http://www.cna-aiic.ca/CNA/documents/pdf/publications/Code_of_Ethics_2008_e.pdf

Appendix G: Department of Community Services, Disability Support Program (DSP)

Previously Services for Persons with Disabilities Program

For information on services and supports available through the Disability Support Program, please visit the Disability Support Program | Nova Scotia Department of Community Services.

Appendix H: Summary of Continuing Care Services

For information on services and supports available through Continuing Care please visit Continuing Care Policies and Standards.

This version of the 'annotated' Adult Protection Act is only to be used and circulated within the Nova Scotia Adult Protection team for educational purposes.

Adult Protection Act

CHAPTER 2

OF THE

REVISED STATUTES, 1989

An Act to Provide for Protection of Adults from Abuse and Neglect

Short title

1 This Act may be cited as the *Adult Protection Act.* R.S., c. 2, s. 1.

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. R.S., c. 2, s. 2.

This section is all about the 'ability' of adults to 'care and fend' adequately for themselves. If they are unable to fend for themselves; or PROTECT themselves against

abuse, neglect and self-neglect, then Adult Protection will protect them by referring them for services which will mitigate their protective needs.

When the Act refers to 'adults who lack the ability to care…adequately for themselves'; it refers to the intention that Adult Protection intervenes in cases of self-neglect as well as abuse and neglect at the hands of others.

Adult Protection assessments and interventions are only justified when an adult does not have the mental or physical ability or 'capacity' to protect him or herself from self-neglect, abuse and neglect (as defined by our risk assessment).

Our solution to 'protect' these adults is to mitigate those risk factors by referring them for services. The services are the solution in this situation; the services 'enhance the ability of the adult to care and fend for himself'.

Abuse, neglect and self-neglect are defined by the functional, biological and sociological indicators of risk in which a person is living. These indicators are documented in the Adult Protection Risk and Capacity Assessment.

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,

'In the premises where the adult resides' is the place where the adult considers he or she resides. The adult would define where he or she resides to the Adult Protection worker; this may be on a particular street, for example, if the person is homeless. The purpose of assessing a person 'in the premises where he resides' is to ensure that the Adult Protection worker has a clear picture of the risk factors which the adult faces in his or her daily environment.

(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

Adult Protection must protect a person if he or she is experiencing serious physical and/or psychological harm and cannot protect him or herself from the abuse that causes that harm.

Previously, there has been significant debate about what constitutes 'mental cruelty' for example. This debate is a moot point; it is not crucial to determine what <u>type of abuse</u> the person is the victim of; it is crucial to demonstrate the

***level of physical and/or psychological harm* that the person is experiencing as a result of the abuse. It would be inappropriate for Adult Protection to intervene in all cases of 'mental cruelty',(which may be name-calling, yelling, etc.), of an incapacitated adult. If the client is experiencing serious psychological harm as a result of 'mental cruelty', it would be appropriate to intervene if the adult meets the other adult protection criteria.**

The Act clarifies that the only justification for intervention under the Adult Protection Act is to protect individuals who are 'incapable of protecting' themselves because they do not have the physical or mental capacity or ability to do so; or in the wording of the Act, they are 'incapable of caring adequately for himself by reason of physical disability or mental infirmity'.

The purpose of the Act stating 'by reason of physical disability or mental infirmity' is presumably for two reasons. The first is for clarification; the only reasons why a person would not be able to protect him or herself would be for either physical and/or mental reasons. Potentially, the second reason is to focus on the phrase 'disability' and 'infirmity'. The use of these words presumes that the condition affecting the adult's capacity or ability to protect him or herself is more permanent in nature; Adult Protection is not meant to intervene if an adult's capacity is temporarily affected, such as in the case of a delirium, for example.

However, it is extremely important to note that the conclusion that an Adult Protection worker is reaching in relation to whether an adult needs protection is a LEGAL determination, not a clinical determination. Adult Protection workers focus on the capacity questions in the Risk and Capacity Assessment and add clinical evidence as relevant throughout the assessment.

(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;

This section is speaking to the aspect of Adult Protection that protects adults from neglect; both self-neglect and neglect at the hands of others. 'Not receiving adequate care and attention' is neglect; whereas 'incapable of caring adequately for himself' is self-neglect.

An 'inadequate' level of care is a level of care where an adult is not receiving or providing him or herself with the essential necessities of life, which includes food, water, housing, life sustaining medication/medical treatment, and is therefore, not living at significant risk.

(c) "Co-ordinator" means the Co-ordinator of Adult Protection Services appointed pursuant to this Act;

(d) "court" means the Family Court;

(e) "Minister" means the Minister of Community Services;

The Minister has changed to the Minister of Health and Wellness.

(f) "prescribed" means prescribed by the regulations. R.S., c. 2, s. 3.

Administration of Act

4 (1) The Minister is charged with the general administration of this Act and may from time to time designate in writing the Co-ordinator or any other person to have, perform and exercise any of the powers, privileges, duties and functions of the Minister or the Co-ordinator under this Act, and shall, when so designating, specify the powers, privileges, duties and functions to be had, performed and exercised by the person so designated.

Document executed by designated person

(2) Where a designation is made pursuant to subsection (1) and the person designated signs or executes a document pursuant to the designation, he shall refer to the name of his office together with the words "Authorized pursuant to Section 4 of the *Adult Protection Act*" and where a document contains such reference, the document

(a) shall be received in evidence without further proof of the authority of the person who signs or executes the same; and

(b) may be relied upon by the person to whom the document is directed or given and by all other persons as an effective exercise of the power or function to which the document relates.

Appointment of Co-ordinator

(3) A Co-ordinator of Adult Protection Services may be appointed in accordance with the *Civil Service Act*. R.S., c. 2, s. 4.

Duty to report information

5 (1) Every person who has information, whether or not it is confidential or privileged, indicating that an adult is in need of protection shall report that information to the Minister.

In many jurisdictions, the duty to report suspicions of the abuse, neglect or self-neglect of adults is held only by health professionals. In this province, this duty is held by all Nova Scotians.

No action lies

(2) No action lies against a person who gives information under subsection (1) unless the giving of the information is done maliciously or without reasonable and probable cause. R.S., c. 2, s. 5.

This can be considered to be similar to a 'good faith' clause in the Act. If a person gives information in 'good faith' and believes the allegation to have cause, he or she will not be charged with an offence under this Act.

Inquiry and assessment by Minister

6 Where the Minister receives a report that a person is an adult in need of protection, he shall

The 'report' referred to in the Act is the referral received from the Continuing Care referral line. The Adult Protection worker on Intake must verify the referral or 'report' by contacting the referral source to see if the referral is an appropriate and valid referral for Adult Protection. This is the 'Intake' stage of intervention.

(a) make inquiries with respect to the matter; and

This section articulates that an 'Inquiry' stage must occur before an assessment and gives Adult Protection authority to conduct those inquiries. After the Adult Protection worker contacts the referral source and has validated the Continuing Care referral information, he or she begins the 'inquiry' by contacting collateral sources to determine if there are reasonable and probable grounds to move forward to an assessment; as identified in the next section.

(b) if he finds there are reasonable and probable grounds to believe the adult is in need of protection, cause an assessment to be made,

and the Minister may, if he deems it advisable, request a qualified medical practitioner to assess the adult, the care and attention the adult is receiving and whether the adult has been abused. R.S., c. 2, s. 6.

This section points to the role of the Adult Protection worker (on behalf of the Minister) as the key person to determine whether or not an adult is in need of protection based on the evidence that is gathered in the assessment process.

If the Adult Protection worker 'deems it advisable', he or she may request a qualified medical practitioner to provide additional evidence as to whether or not he or she meets the criteria of an adult in need of protection.

It is important to note that in Adult Protection investigations, medical evidence is needed to establish whether or not the client has a permanent, irreversible medical condition which affects his or her physical or mental capacity to protect him or herself. Medical practitioners and other health professionals may also provide additional evidence to support the other Adult Protection criteria.

Assistance by Minister

7 Where, after an assessment, the Minister is satisfied that a person is an adult in need of protection, the Minister shall assist the person, if the person is willing to accept the assistance, in obtaining services which will enhance the ability of the person to care and fend adequately for himself or will protect the person from abuse or neglect. R.S., c. 2, s. 7.

This section points to the ability of the Adult Protection worker to refer for services without a court order.

If the 'Minister is satisfied'; meaning that the Adult Protection worker, after conducting an assessment, has concluded that there are reasonable and probable grounds that the person meets all of the criteria of 'an adult in need of protection'; he or she will refer directly to Continuing Care or the Department of Community Services for services. Because the adult is considered to be in need of protection, he or she will receive priority access to services without the need for a court order.

Section 7s happen in two circumstances:

1. ***An adult in need of protection is physically incapacitated to protect him or herself from risk, but does have the mental capacity to consent for a referral for services and is willing to give that consent;***
2. ***An adult in need of protection is mentally incapacitated to protect him or herself from risk, but has a substitute decision maker under the Personal Directives Act who is able and willing to provide consent for a referral for services (for home care or placement into long term care or a DCS facility) on behalf of the adult in need of protection.***

If any person without the mental capacity to consent for home care, placement or medical care does not have a delegate listed in a personal directive, the Personal Directives Act has a hierarchy of statutory decision makers who are able to make decisions for the individual.

It is important to note that in the following situations, a Section 7 is not appropriate and a Section 9 or 10 must be considered:

1 ***if the adult does not have an appropriate substitute decision maker who is able and willing to consent for a referral for services;***
2 ***if there is evidence that the substitute decision maker is not acting in the best interests of the person;***
3 ***if there are allegations of abuse or serious neglect;***
4 ***if the case is complex in nature (for example, if there are any questions in relation to the adult's mental capacity to protect him/herself from risks);***
5 ***if the client consistently refuses to allow services in his or home or to be transported to placement.***

Interpretation of Section

8 (1) In this Section, "court" includes a judge of the provincial court.

Order for entry

(2) Where the adult who is being assessed refuses to consent to the assessment or a member of the family of the adult or any person having care or control of the adult interferes with or obstructs the assessment in any way, the Minister may apply to the court for an order authorizing the entry into any building or place by a peace officer, the Minister, a qualified medical practitioner or any person named in the order for the purpose of making the assessment, and where

(a) the Minister has given at least four days notice of the hearing to the adult or the person having care or control of the adult; or

(b) the Minister has applied *ex parte* and the court is satisfied there are reasonable and probable grounds to believe that the person who is being assessed is in danger,

Ex parte refers to those proceedings where one of the parties has not received notice and, therefore, is neither present nor represented.[1]

the court may grant the order after making due inquiry and being satisfied that there are reasonable and probable grounds to believe that the person who is being assessed is an adult in need of protection. R.S., c. 2, s. 8.

There are two purposes to Section 8:

1. ***To allow access to a client who may need to be assessed if that access is being denied by a third party;***
2. ***To ensure that Adult Protection respects the rights of an individual who may have the mental capacity to refuse an assessment.***

In the first case, Adult Protection may be dealing with a situation of abuse or neglect if the caregiver or person with 'care and control' over the adult refuses to allow Adult

[1] As retrieved from http://www.duhaime.org/LegalDictionary/E/ExParte.aspx on January 21, 2011.

Protection access to the individual, however, the caregiver might be refusing based on a belief that his or her rights are being infringed upon.

In the case of an Adult Protection client him or herself consistently refusing the assessment, this may mean that the client's mental capacity may be questionable, and he or she may, in fact, have the right to refuse.

In both of these situations, it is imperative that the court becomes involved, to ensure that there are reasonable and probable grounds based on the evidence that Adult Protection has collected during Intake and Inquiry and in the worker's attempt to conduct an assessment. The role of the court is to ensure that the individual's rights are not going to be unnecessarily infringed upon.

When attempting to assess the Adult Protection client, it is vital that the worker explains to the client and his or her caregiver the potential consequences of not consenting for an assessment. This may include going to court for an Order for Entry; this will give the client and/or caregiver the opportunity to either give or refuse consent for the assessment based on relevant information.

It is important to note that the purpose of Section 8 is to allow Adult Protection and any other individuals necessary for the assessment to access the client in his or her home. A Section 8 does not allow for the removal of the person to assess him or her outside of the home. A Section 10 is required to remove the person for this purpose.

Application for court order

9 (1) Where on the basis of an assessment made pursuant to this Act the Minister is satisfied that there are reasonable and probable grounds to believe a person is an adult in need of protection, he may apply to a court for an order declaring the person to be an adult in need of protection and, where applicable, a protective intervention order.

In order to demonstrate that the Minister (represented by Adult Protection) has enough evidence to establish reasonable and probable grounds that an adult is in 'need of protection', the Minister must have two standards:

1. ***Clear criteria of when an adult would be considered in 'need of protection' by the government;***
2. ***A standardized assessment that establishes what evidence the Adult Protection workers need to gather in order to demonstrate reasonable and probable grounds for each of the criteria.***

At the end of the Adult Protection Risk and Capacity Assessment, the Adult Protection worker must be 'satisfied' or come to the conclusion that the client is in need of protection because he or she meets the criteria and is, therefore, unable to protect him or herself from abuse, neglect and/or self-neglect.

The positioning of this section makes it clear that a court order should only be pursued if a Section 7 is not appropriate, as in the situation where there is evidence that the substitute decision maker is not acting in the best interests of the client (see the other conditions above listed in the commentary for Section 7). A direct referral for services would be considered the least intrusive option for the client.

In all situations where there are reasonable and probable grounds that abuse and/or neglect causing serious psychological and/or physical harm to the client has been occurring, Adult Protection workers must request that legal counsel apply to the court for an order. This allows for the court to consider if there are other measures needed to protect the person, such as a protective intervention order.

Notice

(2) The Minister shall give at least ten days notice of the application in the prescribed form to the person in respect of whom the application is made or some person having custody or control of that person and, where applicable, the person against whom a protective intervention order may be made.

Order of court

(3) Where the court finds, upon the hearing of the application, that a person is an adult in need of protection and *either*

The role of the court in Adult Protection matters is to:

1. ***Provide an additional level of accountability to determine whether the adult is, in fact, in need of protection; and***
2. ***Ensure that the investigation and assessment have been conducted in compliance with the adult's rights (under the Canadian Charter of Rights and Freedoms); and***
3. ***Ensure that other applicable laws have been followed; and***
4. ***Weigh evidence from the Minister and the client and/or his or her guardian ad litem; and***
5. ***Provide authority to intervene and protect the adult through a court order.***

The evidence required to determine if the adult is in need of protection is presented by legal counsel for the Minister, the Adult Protection worker and the client and/or the guardian ad litem. This evidence is gathered by the Minister through the standardized assessment.

The first determination by the judge is whether or not the evidence presented demonstrates that the client is in need of protection, or in other words, is mentally incapacitated to protect him or herself from a high or extremely high level of risk.

It is important to note that a person with just a physical incapacity to protect him or herself from significant risk would not be subject to a court application against his or her will. That is why Section 7, or a direct referral for services, is applicable in the situation. If a person has the mental capacity to refuse a referral for services; it is within his or her rights to do so.

(a) is not mentally competent to decide whether or not to accept the assistance of the Minister; or

After determining that the adult is in need of protection, the court must also determine if the adult has the mental capacity to accept or refuse services.

This is the same process that Adult Protection goes through with a Section 7; first determining that the adult meets the criteria of being in need of protection and then determining if he or she has the mental capacity to accept or refuse a referral for services. If the client him or herself does not have the capacity to accept a referral for services, Adult Protection will access a substitute decision maker to make the decision on his or her behalf. The court, unlike Adult Protection, however; has the power to involuntarily order services for the adult for his or her own protection.

(b) is refusing the assistance by reason of duress,

This section is considered to be out of date; the issue of 'duress' is addressed through other mechanisms, such as the Criminal Code and/or Family Violence interventions.

the court shall so declare and may, where it appears to the court to be in the best interest of that person,

The judge must take into consideration the stated wishes of an adult in need of protection if he or she has a personal directive indicating his or her wishes in relation to services. Those wishes would be weighed with the availability of appropriate services (for all Nova Scotians); depending on the adult's wishes, the judge may comply exactly with the wishes or may determine overall what would be in the 'best interests' of the adult.

It is important to note that if the adult states his or her wishes during the Adult Protection intervention and/or court process, even if the person is deemed to be incapacitated to protect him or herself from risk and consent for a referral for services, the judge will also consider his or her stated wishes.

(c) make an order authorizing the Minister to provide the adult with services, including placement in a facility approved by the Minister, which will enhance the ability of the adult to care and fend adequately for himself or which will protect the adult from abuse or neglect;

Placement in a Continuing Care or Department of Community Services facility is only one option for an adult in need of protection. Adult Protection must provide a rationale as to why this is the most appropriate choice for the adult and that other less intrusive options, such as home care have been considered before recommending this option.

This section also defines the role of services in Adult Protection. Services are meant to mitigate the protective needs of the person, or to 'enhance the ability of the adult to care and fend adequately for himself or ….protect the adult from abuse or neglect'.

(d) make a protective intervention order directed to any person who, in the opinion of the court, is a source of danger to the adult in need of protection

(i) requiring that person to leave the premises where the adult in need of protection resides unless that person is the owner or lessee of the premises,

(ii) prohibiting or limiting that person from contact or association with the adult in need of protection,

(iii) requiring that person to pay maintenance for the adult in need of protection in the same manner and to the same extent as that person could be required to pay pursuant to the *Family Maintenance Act*.

Protection intervention orders allow the court to set the parameters of how a person deemed to be a source of 'danger', or who is putting the client at greater risk, is allowed to interact with the client. This could include supervised visitation with the client, limiting contact, not allowing for the client to leave the facility with the person, etc.

The Maintenance and Custody Act (1989) now allows any person, or government agency to apply to the Family Court for a maintenance order for an adult child to pay for 'reasonable needs' for a dependant adult parent.

Notice to Public Trustee

(4) Where a court makes an order pursuant to clause (c) or (d) of subsection (3), it may advise the Public Trustee that there appears to be no guardian to act on behalf of the adult in need of protection *or* that it appears that there is a guardian or a person acting pursuant to a power of attorney who is neglecting or dealing with the estate contrary to the best interests of the adult in need of protection.

The Public Trustee may receive notice from the court if an adult is found to be in need of protection and he or she either has no guardian, substitute decision maker according to the Personal Directives Act or has a guardian, substitute decision maker or power of attorney who is not acting in the best interests of the adult.

Expiry of order

(5) An order made pursuant to subsection (3) expires six months after it is made.

Variation or renewal of order

(6) An application to vary, renew or terminate an order made pursuant to subsection (3) may be made by the Minister, the adult in need of protection or an interested person on his behalf, or a person named in a protective intervention order upon notice of at least ten days to the parties affected which notice may not be given in respect of a protective intervention order earlier than three months after the date of the order.

This section points to the responsibility of Adult Protection to follow up with the adult in need of protection. The Adult Protection worker must follow up with the client in order to determine whether a variation, termination or renewal of an order is warranted.

If any other person, such as the adult him or herself or 'an interested person on his behalf' apply to vary, renew or terminate an order, Adult Protection must respond by following up with the adult to determine whether his or her protective needs have been met satisfactorily.

Factor considered by court

(7) An order made pursuant to subsection (3) may be varied, renewed or terminated by the court where the court is satisfied that it is in the best interests of the adult in need of protection.

It is important to note that there are no limitations on how many renewals, variations or terminations may be made on an Adult Protection order. However, Adult Protection workers must demonstrate clearly that any change or renewal of an order is in the client's best interests for the court to consider the application.

Expiry of renewal order

(8) A renewal order expires six months after it is made.

Even though the order expires in six months, Adult Protection workers are required to follow up with the client within three months to assess whether his or her protection needs have been met. This allows for some time to work with the service providers and the client before the order expires to give the client the best opportunity of having his or her protection needs met within the six month timeframe. If the Adult Protection worker determines in his or her follow up with the client that the client is no longer in need of protection, the worker must contact legal counsel immediately to initiate an application to terminate the order before the six month expiry date.

Balance of probabilities

(9) The determination of all matters by a court pursuant to this Section shall be made on ***the balance of probabilities.***

Balance of probabilities, also known as the preponderance of the evidence[2] is a standard proof for most civil cases. The standard of proof is met if the evidence, testimony and exhibits support that the facts/event(s) are more likely to be true than not true. The standard is met if there is greater than 50 percent chance that the information/evidence is true. This standard of proof is less than 'beyond reasonable doubt', which is the standard for criminal court matters.

Appeal

(10) An order made pursuant to this Section may be appealed in accordance with the *Summary Proceedings Act* and on appeal the order may be confirmed, with or without modification, terminated or remitted with direction to the court appealed from, or another order authorized by this Act may be substituted. R.S., c. 2, s. 9.

The Summary Proceedings Act is an Act to amend and reconstitute the law concerning summary proceedings.

The application of the Act is articulated in Section 2:

2 (1) Subject to any special provision otherwise enacted, this Act applies to

(a) every case in which a person commits or is suspected of having committed any offence or act over which the Legislature has legislative authority and for which such person is liable, on summary conviction, to imprisonment, fine, penalty or other punishment; and

(b) every case in which a complaint is made to any justice in relation to any matter over which the Legislature has legislative authority and with respect to which the justice has authority by law to make any order, whether for the payment of money or otherwise.

Removal for protection

10 (1) Where on the basis of an assessment made pursuant to this Act the Minister is satisfied that there are reasonable and probable grounds to believe that

(a) the life of a person is in danger;

(b) the person is an adult in need of protection; and

[2] Retrieved from http://dictionary.law.com/definition2.asp?selected=1586, May 27, 2009.

(c) the person is not mentally competent to decide whether or not to accept the assistance of the Minister or is refusing the assistance by reason of duress,

A Section 10 is only to be used when an adult is living at an extremely high level of risk and his or her life is in danger.

It is important to note that the assessment process called for in this section of the Act will be much shorter than the normal process. The Adult Protection worker must still document the rationale for intervening in the Adult Protection Risk and Capacity Assessment; the assessment lists 'urgent risk factors', which, in most cases would justify a Section 10 intervention.

It is very important to demonstrate that the Adult Protection worker has gone through a process and concluded or is 'satisfied' that reasonable and probable grounds exist before the removal of a person from his or her premises.

The Adult Protection worker must have a rationale as to why less intrusive interventions were not appropriate for the Adult Protection client:

1. ***Rationale for not being able to intervene under a Section 7- the client him or herself could not consent for a referral for services; there was no substitute decision maker able and willing to consent on behalf of the client; or the person was living at such a high level of risk that there was no time to find a substitute decision maker to consent for a referral for services.***
2. ***Rationale for not being able to intervene under a Section 9- the client was living at such a high level of risk that there was no time to assess and apply to the court under a Section 9.***

the Minister may authorize the immediate removal of the person to such place as the Minister considers fit and proper for the protection of the person and the preservation of his life, and a person so authorized may take reasonable measures to remove the person whose life is in danger.

If a client meets the criteria in a Section 10, Adult Protection is authorized to remove him or her from the premises where he or she resides. It is not specific about where a client should or needs to be placed, other than the Adult Protection worker has the discretion to determine what place is 'fit and proper for the protection of the person and the preservation of his life'.

Following this rationale, it can be presumed that if an Adult Protection worker is unable to secure a placement in Continuing Care or Department of Community Services facility; that taking the Adult Protection client to a hospital would be considered to be reasonable in the circumstances.

Application for court order

(2) Within five days after a person is removed pursuant to subsection (1), the Minister shall apply to the court for an order declaring that the person is an adult in need of protection unless the person is sooner returned.

This section reinforces that the Adult Protection worker must apply to the court within 5 days if a client has been removed from his or her premises. If the person is returned within the 5 day period before the application, the Adult Protection worker does not have to apply to the court; however, as stated above, he or she must have a clear rationale as to why a Section 10 was warranted at the time.

Notice

(3) Prior to the hearing of an application pursuant to subsection (2), the Minister shall give notice of the application in the prescribed form to the person in respect of whom the application is made or some person having custody or control of that person.

It is important to note that notice must be given to the client whether or not he or she has mental capacity. To not provide that to the client would be a violation of his or her rights. If a client most likely does not have the mental capacity to understand or appreciate what the notice means, the Adult Protection worker must ensure that his or her substitute decision maker, the person who has primary responsibility for the adult or guardian also receives notice on behalf of the client.

Hearings by court

(4) The court shall proceed forthwith to hear the application of the Minister.

Powers of court

(5) Upon the completion of the hearing, the court may

(a) dismiss the application and direct the return of the person removed; or

(b) make an order in accordance with subsection (3) of Section 9.

Subsections 9(4) to (10) apply

(6) Subsections (4) to (10) of Section 9 apply *mutatis mutandis* to an order made pursuant to this Section. R.S., c. 2, s. 10.

Costs

11 Costs may be awarded against the Minister in the discretion of the court dismissing an application by the Minister pursuant to this Act and the amount shall be determined in accordance with the rules of the court. R.S., c. 2, s. 11.

Welfare of adult is paramount consideration

12 In any proceeding taken pursuant to this Act the court or judge shall apply the principle that the welfare of the adult in need of protection is the paramount consideration. R.S., c. 2, s. 12.

The Adult Protection worker must always consider the stated wishes of an adult in need of protection. However, the overriding consideration must always be the welfare of the adult. If the Adult Protection worker acts against the stated wishes of an adult, in the interests of his or her welfare, the worker must have a clear rationale as to why he or she did so.

Public Trustee informed of removal of adult

13 (1) Where an adult is removed from the premises where he resides to another place pursuant to this Act and it appears to the Minister that there is an immediate danger of loss of, or damage to, any property of his by reason of his temporary or permanent inability to deal with the property, and that no other suitable arrangements have been made or are being made for the purpose, the Minister shall inform the Public Trustee.

Adult Protection workers refer to the Public Trustee directly under this section, when an adult is removed from his or her premises for his or her protection and only where there are no family members who can assume the role of protecting and administering the person's estate.

Powers of Public Trustee

(2) Where the Public Trustee receives information pursuant to subsection (1) and where he is of the opinion that his intervention is appropriate, the Public Trustee may assume immediate management of the estate of that person and may take possession of the property of that person and shall safely keep, preserve and protect the same until

(a) the Public Trustee determines that it is no longer necessary to manage the estate of the person;

(b) the Supreme Court or a judge thereof has appointed the Public Trustee or another person to be guardian of the estate of the adult in need of protection;

(c) a court finds that the person is not an adult in need of protection; or

(d) the order that a person is an adult in need of protection expires, terminates or is rescinded. R.S., c. 2, s. 13.

If the Public Trustee takes over the administration of the estate of an Adult Protection client, he or she has the discretion to continue to administer the estate after the adult is no longer considered to be in need of protection. This is particularly important for adults who are placed in a Continuing Care home or Department of Community Services facility and have no one to administer their estate. This is stated under Section 14A of the regulations for the Public Trustee Act.

Other remedy or right of action unaffected

14 (1) Nothing in this Act limits a remedy available or affects an action that may be taken pursuant to another enactment.

Obligation of others unaffected

(2) Nothing in this Act limits or affects the responsibility of a municipal unit pursuant to the provisions of the *Social Assistance Act* or the obligation of a person to provide maintenance. R.S., c. 2, s. 14.

Assistance by peace officer

15 A peace officer shall assist with the execution of an order issued pursuant to this Act or with the conveyance of an adult in need of protection to a place directed in accordance with this Act when requested to do so by a person acting for the Minister *or* pursuant to an order of the court. R.S., c. 2, s. 15.

Police officers are required to assist Adult Protection workers with the execution of court orders and/or the conveyance of clients if requested by Adult Protection.

Failure to report information is offence

16 (1) Every person who has information, whether or not it is confidential or privileged, indicating that an adult is in need of protection and who fails to report that information to the Minister is guilty of an offence under this Act.

This section outlines the right of Adult Protection to apply to court if the agency has evidence that a person did not exercise his or her duty to report an adult in need of protection. This section would only be used in extreme and rare circumstances.

Time limit for prosecution

(2) A prosecution for an offence referred to in this Section shall be commenced within one year after the day on which the offence was committed and not thereafter. R.S., c. 2, s. 16.

Contravention of Act or order

17 Every person who violates this Act or a protective intervention order is guilty of an offence punishable on summary conviction and is liable to a fine of not more than one thousand dollars or to imprisonment for not more than one year, or both. R.S., c. 2, s. 17.

Jurisdiction of Family Court

18 The Family Court has exclusive original jurisdiction over offences against this Act. R.S., c. 2, s. 18.

Regulations

19 (1) The Governor in Council may make regulations

(a) respecting the provision of services for adults in need of protection;

(b) respecting the procedure for an assessment pursuant to this Act;

(c) respecting forms to be used pursuant to this Act;

(d) respecting the contents and service of documents to be used pursuant to this Act;

(e) defining any word or expression used in this Act and not defined herein;

(f) respecting any matter necessary or advisable to carry out effectively the intent and purposes of this Act.

Regulations Act

(2) The exercise by the Governor in Council of the authority contained in subsection (1) shall be regulations within the meaning of the *Regulations Act*. R.S., c. 2, s. 19.

NOVA SCOTIA
Health and Wellness

Mini Mental State Examination (MMSE) & Clock Drawing[1]

Client:_____ Age:_____
Level of Education:_____
Administered by:_____ Date:_____

1. Orientation to Time **Score**

A. What year is this? _____ _____(1)
(Exact answer only)
B. What Season is this? _____ _____ (1)
(Last month of the old season, or first month of the new season, accept either season)
C. What month of the year is this? _____ _____ (1)
(First day of the new month, or last day of previous month, accept either month)
D. What is today=s date? _____ _____ (1)
(Accept previous or next date, i.e. on the 7th accept 6th or 8th)
E. What day of the week is this? _____ _____ (1)
(Exact answer only)

2. Orientation to Place

A. What country are we in? _____ _____ (1)
(Exact answer only)
B. What province are we in? _____ _____ (1)
(Exact answer only)
C. What city are we in? _____ _____ (1)
(Exact answer only)
D. What is this street address of this house? _____ _____ (1)
(Alternate - What is the name of this hospital?)
E. What room are we in? _____ _____ (1)
(Alternate - What floor are we on now?)

3. Registration

I am going to name 3 words. After I have said all 3 words I want you to repeat them. Remember what they are because I am going to ask you them again in a few minutes.
(1 point for each correct reply; if not correct repeat three times until they are learned - max. 5 times.)

Ball Car Man _____ (3)

4. Concentration/Attention

Ask to spell WORLD, and now spell it backwards (DLROW) _____ (5)
(Count number of correct letters before the first mistake - i.e. DLORW = 2)
(Alternate - subtract from 100 by 7's 5 x=s)

5. Recall

What were the 3 Words: _____ _____ _____ _____ (3)
(1 point for each correct word)

1 Adapted from the Nova Scotia Capital District Health Authority version of the MMSE.

6. What is this called (ask two items)? _____ (2)
(Accept exact answer only i.e. pen, book)

7. Repeat this phrase after me: ANo ifs ands or buts.@ _____ (1)
(Repetition must be exact)

8. Read the words on this page and do what it says. _____ (1)
(Show words. If client does not close eyes, repeat instructions up to 3x=s)

9. Write a sentence. _____ (1)
(1 Point for a complete sentence that makes sense. Ignore spelling errors.)

10. Copy this design. _____ (1)
(1 point only if there are two 5 sided figures intersecting to create a 4 sided figure)

11. Comprehension _____ (3)

Ask client if right or left handed. **If right handed ask client to take paper in left hand, fold in half with both hands, then put the paper on the floor.**
(Score one point for each instruction executed correctly.)

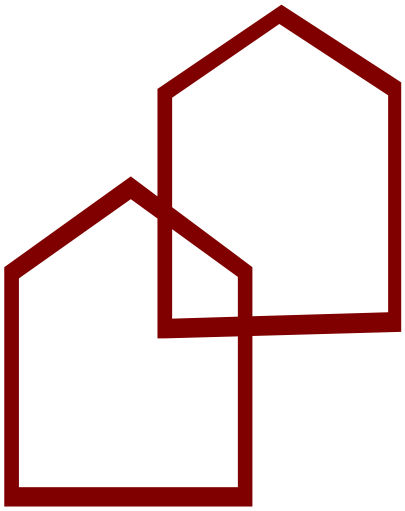
MMSE Total = _____ (30)

12. Clock Drawing Total = _____ (4)

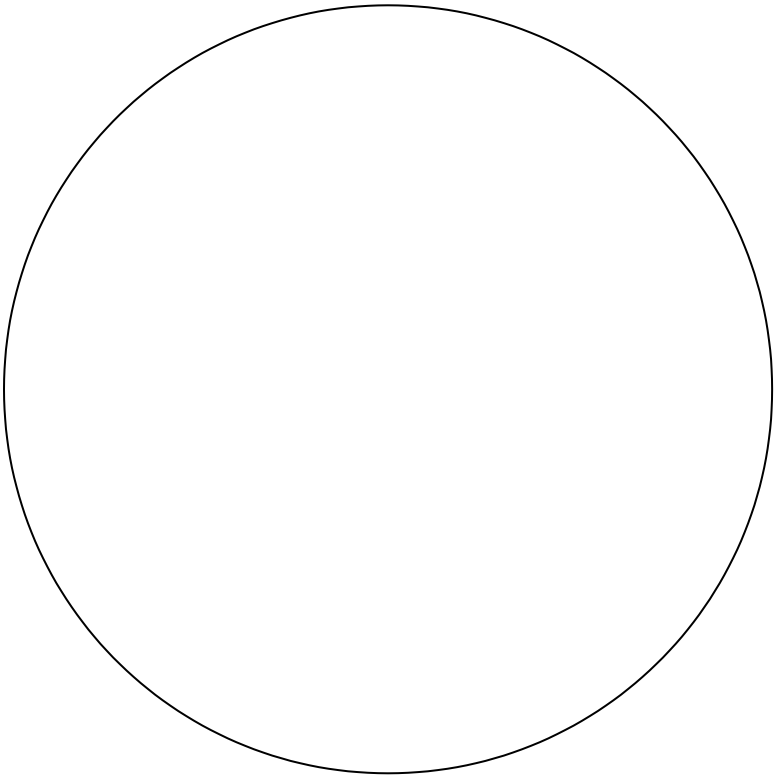
1pt. - **S**equence of #'s correct
1pt. - **O**rganized (#'s in right positions)
1pt. - **A**bstract (hands - 10 past 11)
1pt. - **P**lanned (4quarters for the clock)

Write a Sentence:

Copy this Design Exactly:



Clock Drawing



Close

Your

Eyes

NOVA SCOTIA
Health and Wellness

Mini Mental State Examination (MMSE)[1]

Client:_____ Age:_____
Level of Education:_____
Administered by:_____ Date:_____

1. Orientation to Time **Score**

A. What year is this? _____ _____(1)
(Exact answer only)
B. What Season is this? _____ _____ (1)
(Last month of the old season, or first month of the new season, accept either season)
C. What month of the year is this? _____ _____ (1)
(First day of the new month, or last day of previous month, accept either month)
D. What is today's date? _____ _____ (1)
(Accept previous or next date, i.e. on the 7th accept 6th or 8th)
E. What day of the week is this? _____ _____ (1)
(Exact answer only)

2. Orientation to Place

A. What country are we in? _____ _____ (1)
(Exact answer only)
B. What province are we in? _____ _____ (1)
(Exact answer only)
C. What city are we in? _____ _____ (1)
(Exact answer only)
D. What is this street address of this house? _____ _____ (1)
(Alternate - What is the name of this hospital?)
E. What room are we in? _____ _____ (1)
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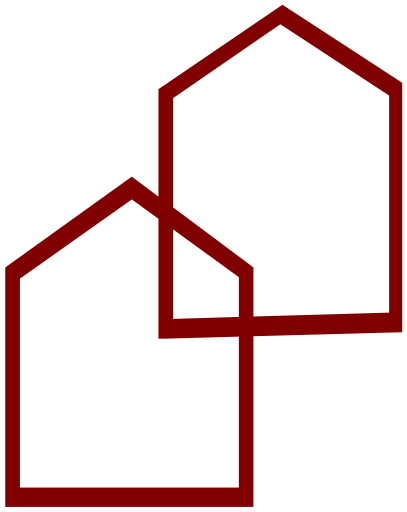
Write a Sentence:

Copy this Design Exactly:



Close

Your

Eyes