



6. Senior abuse and the law

Overview

Laws are complex. There are laws that protect seniors from abuse; however, not all abusive actions are covered by those laws. Even in cases where laws do apply, there may be complicating factors that make it difficult to enforce the laws. For example, it might be difficult to collect evidence; the evidence could be contradictory; or it might be difficult to determine a person's competence to make their own decisions.

This section of the toolkit offers a basic overview of three laws that directly apply to senior abuse in Nova Scotia. It also points you to places where you can learn more. Doing your own research can be helpful, but it won't tell you what might happen in a specific case. If you suspect abuse, talk to a professional. Only a professional looking at the facts of the case can tell you which laws may apply.

Criminal Code of Canada

The Criminal Code of Canada outlines criminal offences and procedures for all of Canada. Many forms of senior abuse are offences under the Criminal Code. For example:

- Physical abuse could be an offence under sections 265 and 268 for assault and aggravated assault.

- Emotional abuse could be an offence under section 423 for threats or intimidation.

For a more detailed description of the possible offences and the sections of the Criminal Code that apply, see Abuse as Criminal Matters, produced by the Canadian Network for the Prevention of Elder Abuse (www.cnpea.ca/abuse_crimes.htm).

Because senior abuse happens within relationships of trust, the people affected may be reluctant to contact the police or follow through with a criminal proceeding. They might not want to see their loved one go to court or to jail. If they are dependent on that loved one, they might be afraid of the impact on their own lives if that person is punished. There might also be health issues that make it difficult for the police to collect reliable evidence. In some cases, the senior may be unable to provide evidence when the matter finally gets to court, which could be years later.

The law in Nova Scotia

Nova Scotia has two laws that relate directly to preventing and responding to the abuse of adults:

- Adult Protection Act
- Protection for Persons in Care Act

Adult Protection Act

The Adult Protection Act aims to protect people aged 16 years or older who live in the community and are experiencing abuse, neglect, or self-neglect, and who cannot physically or mentally protect themselves.

For an adult to be considered “in need of protection,” there must be significant risk of serious physical or psychological harm. About 75 per cent of people who are helped under the act are seniors.

Nova Scotia’s Department of Health and Wellness administers Adult Protection Services. Adults who are found to be in need of protection are referred for help that will address their risks. Priority is given to the most serious cases.

Under this law, you **must** report cases where you know of or suspect that a vulnerable adult is being abused, neglected, or is suffering self-neglect.

If you know or suspect an adult is in need of protection, call Adult Protection Services at **1-800-225-7225**.

Note about financial abuse: The Adult Protection Act addresses physical, emotional, and sexual abuse. It does not address financial abuse. Contact the police if you suspect a vulnerable adult is experiencing financial abuse.

Protection for Persons in Care Act

The Protection for Persons in Care Act (PPCA) applies to patients or residents (over the age of 16) in health facilities. It creates a duty for administrators and service providers in those facilities to report abuse or situations that would likely lead to abuse. Health facilities include

- hospitals
- residential care facilities
- nursing homes or homes for the aged or disabled
- certain homes that provide supervisory or personal care under terms set by the Department of Community Services and the Department of Health and Wellness

Under this act, the Department of Health and Wellness and the Department of Community Services will investigate allegations of abuse and will issue directives to the health facilities in order to protect patients and residents from further harm.

Members of the public may also report known or suspected cases of abuse in health facilities by phoning **1-800-225-7225**.

Legal information resources

To learn more about senior abuse and the law, contact the Legal Information Society of Nova Scotia (LISNS). Their Legal Information Line can give you general legal information. If you want specific legal advice, a LISNS telephone counsellor can give you the name of a lawyer in your area who will meet with you for 30 minutes for a small fee to discuss your case and suggest your next steps. Call 1-800-665-9779 (toll-free in Nova Scotia) or 902-455-3135 (in Halifax).

Also see these practical guides:

- *It's In Your Hands: Legal Information for Seniors and Their Families*. This user-friendly guide to financial and legal planning is available from the Legal Information Society of Nova Scotia (www.legalinfo.org/seniors/index.html).
- *A Practical Guide to Elder Abuse and Neglect Law in Canada*. This guide offers an overview of Canadian laws related to senior abuse. It is published by the Canadian Centre for Elder Law (www.bcli.org/ccel/projects/practical-guide-elder-abuse-and-neglect-law-canada).

When a spouse is abusive, it is called **domestic violence**.

See nsdomesticviolence.ca

