

Policy Number SE4.012	Policy Section Supports and Services	Effective: September 2006 Amended: September 2022
Title: Adult Guardianship Policy		Executive Sponsor: Executive Director, Quality Assurance Vice President, Regional Operations

This policy explains Adult Guardianship and CLBC's role.

The law says that CLBC has to offer help if someone is being:

- Abused (hurt on purpose),
- Neglected (not supported as they need to be), or
- If they are self-neglecting (not able to look after themselves).

The policy has instructions for CLBC staff and service providers in these situations.

It also explains how CLBC works with the police, hospitals and families to keep people safe.

1. PURPOSE

The *Adult Guardianship Policy* describes Community Living British Columbia's (CLBC) legal authority, duties, and responsibilities as a designated agency under the BC [Adult Guardianship Act](#). The Act is designed to promote every adult's right to self-determination and recognizes the need to ensure adults who may require protection from abuse, neglect, or self-neglect have access to a timely response and support. It is a formal safeguard for individuals CLBC supports.

CLBC responds to and investigates situations involving allegations of abuse, neglect, or self-neglect of adults who are eligible for or are receiving CLBC services and which may occur during or outside of service delivery. CLBC's mandate applies to CLBC eligible individuals anywhere in BC with the exception of correctional facilities. During an Adult Guardianship investigation, CLBC collaborates with and relies on a number of external stakeholders, including regional health authorities, the police and the Public Guardian and Trustee of BC.

Policy Framework

The *Adult Guardianship Policy* should be reviewed together with the CLBC *Adult Guardianship: Procedures and Practice Guide* which outlines staff roles and responsibilities, including specific procedures and documentation requirements. Policy and Procedures are applied together as one set of guidance to support an informed and consistent approach to Adult Guardianship investigations.

2 DEFINITIONS

Abuse: (As defined in the *Adult Guardianship Act*) The deliberate mistreatment of an adult that causes the adult:

- (a) Physical, mental or emotional harm, or
- (b) Damage or loss in respect of the adult's financial affairs, and includes intimidation, humiliation, physical assault, sexual assault, overmedication, withholding needed medication, censoring mail, invasion or denial of privacy or denial of access to visitors.

Adult: (As defined in the *Adult Guardianship Act*) refers to anyone who has reached 19 years of age and for the purposes of this policy also refers to persons that are eligible for or may be receiving CLBC services.

Attorney: A person authorized by a power of attorney or enduring power of attorney to make decisions on behalf of another person

Certificate of Emergency Assistance: A certificate formalizing action taken under Sec. 59 of the *Adult Guardianship Act* by a designated agency. The certificate has a maximum timeline of 5 days and can be extended further upon review for an additional 5 days. There is no limitation on the number of extensions.

Committee: An individual appointed by the Supreme Court of British Columbia under the *Patient's Property Act* to assume responsibility for managing either or both the personal (Committee of Person) and/ or financial and legal affairs (Committee of Estate) of an adult who has been found incapable. Committees have the right and the duty to protect the adult or their property and assume full decision-making responsibility on behalf of the adult.

Cultural Safety: An outcome of respectful engagement based on recognition of the power imbalances inherent to service systems, and the work to address these imbalances. A culturally safe environment for Indigenous peoples is one that is physically, socially, emotionally, and spiritually safe without challenge, ignorance, or denial of an individual's identity. Practicing cultural safety requires having knowledge of the colonial, sociopolitical, and historical events that trigger disparities encountered by Indigenous peoples and perpetuate and maintain ongoing racism and unequal treatment.

Designated Agency: An agency designated under the *Adult Guardianship Act* to perform specific legal obligations under Part 3 of the Act to provide support and assistance to adults who

are being abused or neglected, or self-neglected and who are unable to seek support and assistance. CLBC, the five Regional Health Authorities, and Providence Health Care Society are designated agencies.

- CLBC is designated under the Act to investigate situations involving adults who are eligible for CLBC services.
- Regional Health Authorities and the Providence Health Care Society are designated under the Act to investigate situations involving adults who are not eligible for CLBC services.

Health care provider: A person who is licensed, certified or registered under a prescribed Act to provide health care.

Individual: A person 19 years of age or older who is eligible for CLBC services, as described in the *Eligibility Policy*.

Neglect: (As defined in the *Adult Guardianship Act*) Any failure to provide necessary care, assistance, guidance or attention to an adult that causes, or is reasonably likely to cause within a short period of time, the adult serious physical, mental or emotional harm or substantial damage or loss in respect of the adult's financial affairs and includes self-neglect.

Public Guardian and Trustee: The Public Guardian and Trustee is an organization established under the [Public Guardian and Trustee Act](#). Its mandate includes supporting adults who require assistance in decision making through protection of their legal rights, financial interests, and personal care interests.

Representative: A trusted relative, friend or advocate authorized by an adult under the provisions of a Representation Agreement (see Sections 7 or 9 of the *Representation Agreement Act*), to support them with decision-making or to make decisions on their behalf when they are incapable of making decisions independently.

Self-Neglect: (As defined in the *Adult Guardianship Act*) Any failure of an adult to take care of themselves that causes, or is reasonably likely to cause within a short period of time, serious physical or mental harm or substantial damage or loss in respect of the adult's financial affairs, and includes:

- (a) Living in grossly unsanitary conditions,
- (b) Suffering from an untreated illness, disease or injury,
- (c) Suffering from malnutrition to such an extent that, without intervention, the adult's physical or mental health is likely to be severely impaired, and
- (d) Creating a hazardous situation that will likely cause serious physical harm to the adult or others or cause substantial damage to or loss of property.

Support and Assistance Plan: A plan developed under the *Adult Guardianship Act* by designated agencies, specifying the type of support and assistance offered to an adult, if it has been revealed through an investigation that they have been abused, neglected, or self-neglected, and are unable to seek support and assistance on their own.

Note: Additional definitions for abuse, neglect, or self-neglect may be found in CLBC's *Critical Incidents Policy* which also clarifies Licensing categories for critical incident reporting.

3. POLICY

Adult Guardianship Act Duties

- 3.1** As a designated agency, CLBC has a legal obligation to respond to and investigate situations involving allegations of abuse, neglect or self-neglect of adults who are eligible for CLBC services. CLBC provides support and assistance to adults whose ability to request or receive support on their own may be limited. CLBC considers cultural safety as part of its general practice and includes cultural safety considerations when applying principles set out in the *Adult Guardianship Act*.
- 3.2** If, after receiving a report under Part 3 of *Adult Guardianship Act*, and there is reason to believe the adult is abused, neglected, or self-neglecting, CLBC must determine whether the adult needs support and assistance.
- 3.3** CLBC is governed by the principles set out in the *Adult Guardianship Act* which ensure:
- a) Self-determination in decision making,
 - b) Right to the most effective and least intrusive form of support,
 - c) Using the court as the last option once all alternatives including support and assistance planning have been offered to the adult.
 - d) The presumption of capability:
 - (i) Until the contrary is demonstrated, every adult is presumed to be capable of making decisions about their personal care, health care, and financial affairs.
 - (ii) An adult's way of communicating with others is not grounds for deciding that they are incapable of making decisions about anything referred to in subsection (i).

Reports of Abuse, Neglect, or Self-Neglect and Conducting Investigations

- 3.4** Reports of abuse, neglect, or self-neglect can be made to any CLBC staff. CLBC staff who become aware of a report must advise the Regional Integrated Services Manager and forward the report to CLBC staff responsible for adult guardianship investigations.
- 3.5** As part of an investigation, CLBC must make every reasonable effort to interview the adult. CLBC may interview their families and other support network members as needed to assist the investigation, including the adult's legal authority such as Committee, Representative, or other legal authority.
- 3.6** CLBC staff offer support and assistance planning throughout the investigation and involve the adult in all support and assistance related decisions as described under Section 53 of the Act.

- 3.6.1** If the investigation determines the adult requires further support, CLBC prepares a Support and Assistance Plan.
- 3.6.2** If an adult refuses to accept the services offered in the Support and Assistance Plan and CLBC has concerns about their capability to make that decision, CLBC may pursue a court order and notify the Public Guardian and Trustee that an assessment under Part 3 of the *Adult Guardianship Act* is required.

Emergency Measures

- 3.7** Under Section 59 of the Act, CLBC staff have the authority to provide emergency assistance where necessary to:
- Preserve an adult's life,
 - Prevent serious physical or mental harm to the adult, or
 - Protect the adult's property from significant loss.
- 3.7.1** Executive Director of Quality Assurance or delegate issues and signs all Certificates of Emergency Assistance.

Disclosure and Sharing of Information

- 3.8** During the investigation, CLBC must not disclose the identity of persons providing information in confidence to CLBC except when authorized or required by the [*Freedom of Information and Protection of Privacy Act*](#) (FOIPPA) and section 62(2) and 62.1(2) of the *Adult Guardianship Act*.
- 3.9** Under Section 48 of the *Adult Guardianship Act*, CLBC has the authority to obtain all information related to the adult that is necessary to perform its duties as a designated agency. This includes:
- a) Accessing reports from health care providers who examined the adult
 - b) Accessing information from any agencies that provide or have provided the individual health or social services
 - c) Accessing information from persons that manage the adult's financial affairs (e.g., Committee of Estate, Attorney acting under a Power of Attorney document, Representative acting under a Representation Agreement, Trustee), and
 - d) Connecting with any other person who has custody or control of information that CLBC requires for its investigation.
- 3.10** Under section 62.1 of the *Adult Guardianship Act*, CLBC has the authority to share information collected for the purpose of performing its duties under the *Act*, with other designated agencies and the Public Guardian and Trustee.

Collaboration with Stakeholders

- 3.11** CLBC staff make referrals to the Public Guardian and Trustee on the adult's behalf when there are concerns about the:
- a) Management of the adult's financial or legal affairs and whether the adult has legal authority of their financial or legal affairs, or
 - b) Healthcare or personal decision making by the individual's Committee of Person or Representative (under a Representation Agreement).
- 3.12** If the report of abuse, neglect or self-neglect is for a person **not eligible for CLBC services**, CLBC staff must refer them to the appropriate Health Authority, which are also designated agencies under the *Adult Guardianship Act*.
- 3.13** If CLBC staff have reason to believe a person eligible for CLBC services is a victim of a crime, staff must submit a police report on the person's behalf. When a police report is submitted, the Regional Integrated Service Manager and the Executive Director or Manager, Quality Assurance must be notified.
- 3.14** CLBC works closely with Health Authority staff operating under the [*Community Care and Assisted Living Act*](#) during investigations of abuse, neglect, or self-neglect in licensed settings.
- 3.15** Service providers are not designated under the *Adult Guardianship Act* and therefore do not have the authority to investigate allegations of abuse, neglect, and self-neglect that occur during their service provision. Service providers are responsible for the conduct of staff and volunteers in their programs and services.

CLBC staff work with service providers to prevent abuse or neglect and to ensure any corrective actions recommended by investigations are implemented. CLBC staff act promptly on the findings of investigations, including making changes to contracts with affected service providers, or changes to the service provided to the affected adults.

Other Incidents

- 3.16** With the exception of allegations of abuse or neglect, CLBC staff respond to other incidents that occur during service delivery through the critical incident process. See CLBC's *Critical Incidents Policy* for further information.

4. REFERENCES

CLBC:

Adult Guardianship Procedures and Practice Guide

[Critical Incidents Policy](#)

Cultural Safety Policy

[Eligibility Policy](#)

BC Legislation and Publications:

[Adult Guardianship Act](#)

[Community Care Assisted Living Act](#)

[Freedom of Information and Protection of Privacy Act](#)

[Patient's Property Act](#)

[Public Guardian and Trustee Act](#)

[Representation Agreement Act](#)