

Agency Service Coordination Manual

6.1 Protection from Abuse and Neglect: Reporting and Investigations

Background

The Vulnerable Persons Living with a Mental Disability Act (the Act) provides the legislative framework for the protection of vulnerable persons from abuse and neglect. Specifically, the legislation requires the reporting of alleged abuse or neglect, the investigation of all allegations and, where warranted, protective action.

All persons who have reasonable grounds to believe that a vulnerable person is or is likely to be abused or neglected are legally obligated to report these suspicions immediately to the Department of Families.

Please refer to the Community Living Disability Services (CLDS) Protection Policy which outlines the legislative framework of the Act, principles and rights related to protection, exceptions to confidentiality, and definitions under the legislation.

This procedure describes roles and responsibilities for agency and department staff in the reporting and investigation of abuse and neglect, as part of the Service Coordination Pilot Project.

Definitions

Abuse – mistreatment, whether physical, sexual, mental, emotional, financial or a combination thereof, that is reasonably likely to cause death, or that causes or is reasonably likely to cause serious physical or psychological harm to a vulnerable person, or a significant loss to their property.

Allegation Review Report – a report intended to support the gathering of information received from a reporter and any additional information needed to determine whether the incident or concern is a valid allegation of possible abuse or neglect of a vulnerable person. The form documents the decision point of the review as to whether a formal investigation is required.

Criminal Offense – a crime punishable under the Criminal Code of Canada (e.g., physical, sexual or financial abuse).

Inconclusive Investigation – a finding of the protection investigation where the alleged mistreatment has been confirmed, however there is insufficient evidence to confirm that the mistreatment was of such a nature that it was reasonably likely to cause death or serious harm.

Neglect – an act or omission whether intentional or unintentional that is reasonably likely to cause death or that causes or is reasonably likely to cause serious physical or psychological harm to a vulnerable person, or significant loss to their property.

Protection Investigation Report – a report completed when the decision is made to proceed with a formal protection investigation which involves the collection of information/evidence to determine whether abuse or neglect has occurred based on definitions in the Act. Both the Allegation Review Report and the Protection Investigation Report become the department’s formal documentation of the protection investigation process and actions taken.

Substantiated Investigation – a finding of the protection investigation confirming that mistreatment occurred, where there is sufficient evidence to confirm that the mistreatment caused or is reasonably likely to cause the vulnerable person serious harm.

Unsubstantiated Investigation – a finding of the protection investigation wherein the allegation of abuse or neglect is found to be unsubstantiated, which means there is insufficient evidence to confirm that abuse or neglect occurred.

Process

Note: For all matters related to allegations of abuse or neglect, the agency designate will contact the Protection Team for participants that reside in Winnipeg, or the appropriate regional program manager for participants that reside in a Rural and Northern Services (RNS) region.

For the purpose of this policy, RNS Program Managers will be noted as responsible for the procedures described. RNS Program Managers may choose to complete these procedures or delegate to an appropriate staff member such as the Service and Support Navigator (SSN) or a regional Community Service Worker (CSW). Please see attached appendix for current contact information for RNS Program Managers and their managing coverage areas.

Consultation

- An agency designate can contact the Protection Team or RNS Program Manager at any time should consultation regarding protection from abuse and neglect be required.
- For exceptional situations involving significant concern for the safety of a vulnerable person that do not fall into the categories of abuse or neglect, the agency designate can consult with the SSN, who may refer the matter to the Protection Team or RNS Program Manager where required.

Reporting

- In cases of concern or allegation of possible abuse or neglect of a vulnerable person, the agency designate immediately emails the Protection Team or RNS Program Manager and SSN with initial details of the concern or allegation.
 - The email should be sent using the Secure Email Transfer Service (SETS) to CLDSagencyprotection@gov.mb.ca or the appropriate RNS mailbox and SSNCLDS@gov.mb.ca.
 - While the agency should begin safety planning immediately, it is crucial that the agency does not initiate their own investigation in order to avoid interference with formal investigation conducted by the department.
- Following the initial report, the agency designate will email a formal Incident Report to the Protection Team or RNS Program Manager, SSN, and Residential Care Licensing (RCL) where appropriate, within five working days, unless requested sooner by department staff. The Protection Team or RNS Program Manager will review the Incident Report, determine whether completion of an allegation review will be required and advise the agency designate of this decision. The Protection Team or RNS Program Manager will advise the agency designate to contact the vulnerable person's support network where applicable.
- Where applicable, the agency designate informs the appropriate SDM of the concern or allegation. For example, an SDM for personal care would be informed of concerns regarding physical abuse or neglect and an SDM for property would be informed of concerns of financial abuse.
 - For individuals with the Public Guardian and Trustee (PGT) appointed as their SDM, the agency designate and/or the SSN will ensure the assigned CSW is also aware of the protection allegation and/or investigation. The CSW will then inform the PGT.
- There may be situations where an allegation of mistreatment has occurred that may not meet the definition of abuse or neglect as defined by the Act. These situations should still be reported to the Protection Team or RNS Program Manager and SSN as described above. Agencies should wait for the department's assessment and direction prior to initiating an internal investigation (e.g., Human Resources investigation).

Allegation Review

- The purpose of an allegation review is to determine whether the incident is an allegation of abuse or neglect that requires a formal protection investigation under the Act.
- The Protection Team or RNS Program Manager will complete an Allegation Review Report when required, gathering and documenting information from agency staff, the vulnerable person, and/or others as necessary. Based on the

information gathered, there are three potential conclusions that can be made when reviewing an allegation:

- the concern is not an allegation of abuse or neglect;
 - the allegation identified safety concerns which require safety planning and monitoring; or
 - a protection investigation is required.
- The Protection Team or RNS Program Manager will advise the agency designate and SSN of the conclusion upon completion of the allegation review.

Protection Investigation

- The purpose of a protection investigation is to determine if abuse or neglect occurred as per the definitions under the Act.
- When the conclusion from the allegation review results in a formal protection investigation under the Act, the Protection Team or RNS Program Manager will conduct the investigation and document the information gathered, actions taken, findings and conclusion in a Protection Investigation Report.
- The Protection Team or RNS Program Manager will submit the completed Protection Investigation Report to the SSN, their program manager and CLDS Director Lead.
- The Protection Team or RNS Program Manager will submit a letter detailing recommendations from the investigation to the agency designate, the SSN, their program manager and RCL where applicable. Additionally, the person who has an allegation made against them will receive a letter outlining the conclusion of the investigation.
- Where recommendations are applicable to additional members of the support team (e.g., schools, family, other service providers), the Protection Team or RNS Program Manager will lead communication with these parties as required.
- In cases where an apprehension or emergency removal is necessary, the agency will take the lead under CLDS direction, but may request assistance or further guidance from the Protection Team or RNS Program manager if required.

Follow Up and Recommendations

- The Protection Team or RNS Program Manager will advise the agency designate, SSN and RCL, where applicable, with concerns related to standards of care. The SSN will work with the agency to address these concerns where required.
- In situations where an allegation review identifies safety concerns but does not require a protection investigation, the agency designate will proceed with safety planning to ensure the vulnerable person's safety and well being. The agency designate must record all actions to address safety, along with follow up

recommendations, in the vulnerable person's case file. The SSN will only intervene should additional support be requested or required.

- Following a protection investigation, the agency must address all recommendations put forth by the Protection Team or RNS Program Manager to mitigate risk of future harm within the time frame specified in the letter. The agency designate will record and submit all actions taken to the SSN and Protection Team or RNS Program Manager, and retain in the vulnerable person's case file.
 - The agency will send a response letter to the Protection Team or RNS Program Manager, as well as the SSN, advising how they have met or exceeded the recommendations. The SSN is responsible for ensuring that the agency has taken satisfactory action within the specified time frame.
 - The SSN may provide support with education, training and capacity building where required.
- Where an allegation is substantiated following the protection investigation, the department:
 - notifies the person who has an allegation made against them of the substantiated conclusion;
 - reports the name of the person who has an allegation made against them to the person's employer, in cases where their employment duties involve the care and support of a vulnerable person;
 - forwards information regarding the investigation to the Crown Attorney's office when charges under the Act will be pursued; and
 - refers the matter to the Adult Abuse Registry Committee when the criteria is met for doing so.

Standards

- Any person who has reason to believe that a vulnerable person is or is likely to be abused or neglected must immediately report that belief and the information upon which it is based.
- The agency designate must immediately report a concern or allegation of abuse or neglect to the Protection Team or RNS Program Manager and SSN within one working day of becoming aware of the allegation.
- A formal Incident Report detailing the allegation must be submitted to the Protection Team or RNS Program Manager and SSN within five working days, unless otherwise specified by the Protection Team or RNS Program Manager.
- In situations where the PGT is appointed as SDM, the SSN will ensure the CSW has adequate information to report to the PGT.

- If the agency designate is aware that the allegation of abuse or neglect may be criminal in nature (i.e., physical, sexual, financial abuse) the agency designate may support the vulnerable person VP to report to the police. The police will determine if further investigation is warranted under the Criminal Code of Canada. The Protection Team or RNS Program Manager will contact law enforcement should the allegation review or protection investigation reveal a criminal offense that was not originally reported.
- The agency designate must inform the appropriate SDM, where applicable, of the concern or allegation.
- Where required, the Protection Team or RNS Program Manager will complete an Allegation Review Report within 10 working days of receipt of the allegation.
- Departmental protection investigations should be completed within 60 days from the point in time that it was determined a protection investigation was warranted (i.e., conclusion of the allegation review).
- The agency designate must document all actions taken to address safety concerns and/or formal recommendations in the vulnerable person's case file.
- The agency designate must maintain correspondence with the Protection Team or RNS Program Manager as required and provide all requested follow-up information in a timely manner.

For Reference

- [Adult Abuse Registry Brochure](#)
- [Adult Abuse Registry Questions and Answers](#)
- [CLDS Protection Policy](#)
- [VPCO - What is the Vulnerable Person's Act?](#)
- [VPCO - The Protection of Vulnerable Persons from Abuse and Neglect Fact Sheet](#)
- [The Vulnerable Persons Living with a Mental Disability Act](#)