

# **PROTECTING ADULTS LIVING WITH AN INTELLECTUAL DISABILITY FROM ABUSE AND NEGLECT**

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**REPORTING REQUIREMENTS FOR  
DIRECT SERVICE PROVIDERS**

# Table of Contents

INTRODUCTION ..... 3

DEFINITIONS ..... 4

PRINCIPLES OF THE LEGISLATION ..... 8

PROTECTION PART 3 OF THE ALIDA..... 10

RECEIVING A DISCLOSURE ..... 13

REPORTING POSSIBLE ABUSE OR NEGLECT..... 15

REPORTING TO PROVINCIAL PROTECTION INVESTIGATION UNIT ..... 16

INVESTIGATION PROCESS ..... 16

AFTER THE INVESTIGATION ..... 19

CONCLUSION..... 20

ALLEGATIONS AGAINST A SERVICE PROVIDER ..... 21

APPENDIX A:  
POTENTIAL RISK INDICATORS OF ABUSE & NEGLECT ..... 23

APPENDIX B:  
MANITOBA FAMILIES REGIONAL OFFICES ..... 25

## INTRODUCTION

The Adults Living with an Intellectual Disability Act (ALIDA) provides a framework to protect adults living with an intellectual disability from abuse or neglect. By law, a person who believes an adult living with an intellectual disability is, or is likely to be, abused or neglected is required to report this information to the Department of Families.

All reports regarding abuse or neglect will be reviewed promptly and when appropriate, referred to the police. If abuse or neglect is confirmed, immediate action will be taken to protect the adult living with an intellectual disability. This may include providing support services or taking the person to a safe place.

In order to determine whether a reported incident or concern is a potential allegation of abuse or neglect, the Provincial Protection Investigation Unit (PPIU) reviews information to validate the authenticity of the report. If the information supports the likelihood of abuse or neglect, a formal protection investigation under the ALIDA occurs. Safety planning takes place throughout the review and/or investigation and when appropriate, immediate action is taken to protect the adult living with an intellectual disability.

In Manitoba, the ALIDA and the Adult Abuse Registry Act are the legislation that protect adults living with an intellectual disability from abuse and neglect. The information in this document provides an overview of the principles of the legislation and the issues affecting protection, to help workers understand how to appropriately respond to concerns regarding abuse and neglect. Definitions of abuse and neglect, how to receive a disclosure and a brief overview of the investigative process are also outlined in this document. Appendix A outlines potential indicators of abuse and neglect and Appendix B lists the regional offices where allegations are to be reported.

This guide can be used as part of an employee's agency/workplace orientation and is most effective when combined with training.

### Duty to Report

**All individuals are required by law to report any concerns about the possible abuse or neglect of an adult living with an intellectual disability.**

## DEFINITIONS

Understanding the legislation and delivering protection services to adults living with an intellectual disability requires familiarity with the following definitions.

**Abuse** - refers to:

- the use of physical force resulting in pain, discomfort or injury, including slapping, hitting, beating, burning, rough handling, tying up or binding;
- the intentional causing of emotional or psychological harm, including through threats, intimidation, humiliation, harassment, coercion or restriction from appropriate social contact;
- sexual contact, activity or behaviour between an adult living with an intellectual disability and an individual in a position of trust or authority;
- non-consensual sexual contact; and
- the theft or destruction of the property of an adult living with an intellectual disability.

**Neglect** - refers to an act or omission that causes or is reasonably likely to cause:

- the death of an adult living with an intellectual disability;
- physical or psychological harm to an adult living with an intellectual disability; and
- a significant loss to the property of an adult living with an intellectual disability.

### Examples of Neglect -

**Failure** or **omission** by a person to provide the necessities of life including food, clothing and shelter. It also includes failure to provide care and supervision that is appropriate to the age or development of an adult living with an intellectual disability including: protection from harm, the provision of appropriate personal hygiene and health care.

Neglect can be repeated failures or omissions that could result in physical harm or illness, psychological harm or loss of personal property. Neglect can also be a one-time event that results or could result in physical harm or illness.

Neglect includes the repeated failure to administer medications as prescribed.

**Adult Abuse Registry (AAR)** – refers to a database that records the identity of individuals who have been found to have abused or neglected an adult living with an intellectual disability. The Adult Abuse Registry Committee (AARC) determines whether individuals meet the criteria to be placed on the registry.

**Adult Abuse Registry Committee (AARC)** – refers to the committee established for The Adult Abuse Registry Act.

**Abuse Investigation Findings** – refers to the following three possible outcomes of an investigation:

**Unsubstantiated** – There is insufficient evidence to confirm abuse, neglect or inappropriate conduct occurred as prescribed by the ALIDA under definition of Abuse and Neglect 1(1);

**Inappropriate Conduct** – There is sufficient evidence to confirm that an inappropriate act or omission occurred, however, the act or omission did not cause and was not reasonably likely to have caused: the death of an adult living with an intellectual disability, pain, discomfort or injury, emotional or psychological harm, or significant loss of property to an adult living with an intellectual disability as prescribed by the ALIDA under the definition of Abuse and Neglect 1(1); and

**Substantiated** - There is sufficient evidence to confirm that an act or omission occurred that caused or was reasonably likely to have caused: the death of an adult living with an intellectual disability, pain, discomfort or injury, emotional or psychological harm, or significant loss of property to an adult living with an intellectual disability as prescribed by the ALIDA under the definition of Abuse and Neglect 1(1).

**Adult Living with an Intellectual Disability** – means an adult aged 18 years or older living with an intellectual disability who needs assistance to meet basic needs regarding personal care or the management of their property.

**Alleged Offender** - the person who has been reported to have committed an act(s) of abuse or neglect against an adult living with an intellectual disability.

**Commissioner for Adults Living with an Intellectual Disability** – means the person appointed as the Commissioner under the ALIDA to implement the substitute decision making provisions of the ALIDA.

**Community Living disABILITY Services (CLDS)** – refers to the Community Living disABILITY Services program of the Department of Families.

**Community Service Worker (CSW)** – means an employee with the Department of Families who facilitates, co-ordinates and ensures the delivery of services to adults living with an intellectual disability under the ALIDA. The CSW refers reports of abuse or neglect to the PPIU.

**Complex Case Review** – means a review process to assist with planning, decision making or reaching conclusions on difficult cases involving adults living with an intellectual disability.

**Criminal Offence** – means a crime committed against an adult living with an intellectual disability that is punishable under the Criminal Code of Canada (e.g., physical or sexual assault, fraud and/or failure to provide the necessities of life).

**Designated Officer** – means the Executive Director appointed under the ALIDA, or a person specified in the regulations, who has authority under legislation to refer a matter to the committee for review.

**Emergency Intervention** – means intervention by medical personnel or law enforcement is needed if an adult living with an intellectual disability is in immediate danger of death, or serious harm, or deterioration from alleged abuse, or neglect, or requires an emergency placement by a CSW.

**Executive Director** – refers to the Executive Director of Community Service Delivery (Disability and Specialized Services or Regional Social Services) who is designated by the Minister of Families to exercise any or all of the powers, or perform any or all of the duties of an Executive Director under the ALIDA. An Executive Director may authorize a person to perform any of the duties or exercise any of the powers of the Executive Director. In protection matters, the CSW acts on behalf of the Executive Director.

**Intellectual Disability** – means significantly impaired intellectual functioning existing concurrently with impaired adaptive behaviour and manifested prior to the age of 18 years. It excludes disabilities due exclusively to a mental disorder as defined under Part I of the Mental Health Act.

**Provincial Protection Coordinator/Program Manager** – means the employee of the Department of Families who supervises and manages the Provincial Protection Investigation Unit (PPIU).

**Provincial Protection Investigation Unit (PPIU)** – means the specialized unit within the Department of Families authorized to conduct investigations into reports of abuse and/or neglect of adults living with an intellectual disability.

**Protection Investigator** – means the individual(s) within the PPIU responsible for conducting investigations into reports of abuse and/or neglect of adults living with an intellectual disability.

**Reporter** – means the person who initially reports the alleged abuse or neglect of an adult living with an intellectual disability. The reporter may be the adult living with an intellectual disability, their Substitute Decision Maker (SDM), support network member, service provider or anyone else who witnesses the abuse or neglect or suspects it is occurring.

**Service Provider** – means a person who provides care, support or related assistance to an adult living with an intellectual disability, whether:

- in the course of professional, official, or employment duties (e.g., day service provider, residential care worker, etc.);
- as a student in a training placement;
- as a volunteer;
- as an owner, operator, or manager of a facility that provides such care, support services or related assistance; and
- as an employee under the Civil Service Act who provides services to an adult living with an intellectual disability in the course of their employment duties (e.g., employees of the Department of Families).

**Substitute Decision Maker (SDM)** – means a person appointed under the ALIDA to make decisions on behalf of an adult living with an intellectual disability. The Office of the Commissioner for Adults Living with an Intellectual Disability may appoint SDMs to make decisions about a supported individual's personal care and/or property.

**Support Network** – means one or more persons who provide advice, support or direction to an adult living with an intellectual disability and may include:

- the spouse of an adult living with an intellectual disability;
- other family members; or
- those chosen by the adult living with an intellectual disability.

**Support Services** – means services for the adult living with an intellectual disability that are arranged through the Department of Families (e.g., day services, residential services).

## PRINCIPLES OF THE LEGISLATION

The following principles guide the development of policies, programs and delivery of services for adults living with an intellectual disability.

- Adults living with an intellectual disability are presumed to have the **capacity to make decisions** affecting themselves unless demonstrated otherwise.
- Adults living with an intellectual disability should be encouraged to **make their own decisions**.
- The support network of an adult living with an intellectual disability should be encouraged to help the adult living with an intellectual disability make decisions to enhance their **independence and self-determination**.
- Any help with decision making given to an adult living with an intellectual disability should respect the **privacy and dignity** of the person and should be the **least restrictive and least intrusive** form of assistance.
- **Substitute decision making should be invoked only as a last resort** when an adult living with an intellectual disability needs decisions to be made and is unable to make them on their own or with the involvement of members of their support network. The supported individual should be part of decision-making whenever possible.

Capacity deals with the process of decision making and does not depend upon the actual choice made. Capable people are able to make rational choices, based on their values, goals, knowledge and understanding of the issues facing them.

*Molloy et al. (1999:6)*

### Principles and Rights of the ALIDA Related to Protection

The Department of Families has adopted the following principles and rights of the ALIDA with respect to protection of adults living with an intellectual disability.

- Adults living with an intellectual disability have the right to refuse protection services, if they understand why such services are offered and are aware of the potential dangers or likely outcomes of their refusal.

Not all adults with an intellectual disability need protection services as defined in the Act. Many adults with an intellectual disability are independent – living, working and making decisions in the community.

- The Department of Families has a duty to notify the adult living with an intellectual disability and their SDM, as applicable, of an investigation of abuse or neglect, as well as the outcome.
- The assistance of a support network or SDM or committee if any, should be sought if the adult living with an intellectual disability does not understand why protection services are offered and does not understand the consequences of refusing them.



If the situation is inappropriate, such as when a support network member or SDM is the alleged offender, an application can be submitted to the Commissioner for Adults Living with an Intellectual Disability to appoint an emergency or replacement SDM.

- The wishes, values or beliefs of an adult living with an intellectual disability are to be considered foremost so their independence and self-determination can be maintained. Where these are not known or may endanger the supported individual or another person, their best interests should be considered.
- Protective action should be the least restrictive and least intrusive to ensure reasonable safety and security under the circumstances and to maintain the independence, privacy and dignity of the individual.
- All information on the adult living with an intellectual disability is to be maintained in a confidential manner to be released or disclosed only with consent (e.g., by the adult living with an intellectual disability or SDM/committee) and compliant with legislation to meet the best interests of the individual.

## **Exceptions to Confidentiality**

All information about the adult living with an intellectual disability is to be treated in a confidential manner. Information may be disclosed (with the exception of client/solicitor privilege):

- with the consent of the adult living with an intellectual disability or if they are not capable, with the consent of a person authorized to give consent on their behalf (e.g. SDM, committee);
- to comply with the Act or other legislation (e.g. records can be subpoenaed for criminal charges) or by order of a court;
- if disclosure is necessary for the performance of duties or the exercise of powers defined under the Act; or
- if disclosure is in the best interests of the adult living with an intellectual disability.

## PROTECTION PART 3 OF THE ALIDA

Under the ALIDA, all persons must report immediately to the Department of Families when they believe on reasonable grounds, that the adult living with an intellectual disability is, or is likely to be, abused or neglected. The name of the reporter will not be disclosed (some conditions may apply). No action can be taken against a person for reporting in good faith that an adult living with an intellectual disability is or is likely to be abused or neglected.

### **Part 3 of the ALIDA outlines the following:**

No person shall abuse or neglect an adult living with an intellectual disability. Service providers, SDMs or committees must take all reasonable steps to protect the adult living with an intellectual disability.

**Duty to protect:** Service providers, SDMs or committees must take reasonable steps to protect the adult living with an intellectual disability.

**Duty to report:** All persons who believe that an adult living with an intellectual disability is or is likely to be abused or neglected have a duty to report. Failure to report instances of abuse or neglect is an offence under the ALIDA.

### **Offences and Penalties**

Section 164(1) of the ALIDA states that a person is guilty of an offence under this Act who:

- abuses or neglects an adult living with an intellectual disability;
- fails to protect an adult living with an intellectual disability;
- fails, refuses or neglects to report suspicions of abuse or neglect;
- interferes with any person who is attempting to report, is reporting or has reported abuse or neglect;
- interferes with any person exercising powers under the Act;
- discloses the identity of anyone who makes a report;
- takes any adverse action against the person who reports;
- interferes with the person exercising duties under the Act; or
- withholds, conceals, refuses to provide information, paper, record or thing required to be produced under the Act.

A person who is guilty of an offence under subsection (1) of the ALIDA is liable on summary conviction to a fine of not more than \$50,000 or imprisonment for a term of not more than 24 months, or both.

A prosecution under the ALIDA may be commenced not later than two years after the alleged offence is committed.

## **Powers of Investigation**

Section 22(2) of the ALIDA outlines the powers of investigation for the Executive Director who may:

- communicate/visit with the adult living with an intellectual disability and enter any place;
- require information or any record; or
- solicit reports and information that may be relevant.

## **Order for Entry**

On application by the Executive Director, a judge or Justice of the Peace may, under Section 23(1) of the ALIDA, make an order authorizing the Executive Director, a peace officer or any other person named in the order, to enter any place for the purposes of an investigation under Section 22 if the judge or Justice of the Peace is satisfied that:

- there are reasonable grounds to believe that an adult living with an intellectual disability is or is likely to be abused or neglected; and
- the Executive Director has been unable to gain access to the adult living with an intellectual disability.

## **Protective Action**

If, at any point, the Executive Director believes that an adult living with an intellectual disability is or is likely to be abused or neglected, the Executive Director may take such action considered appropriate to protect that individual, including one or more of the following:

- providing for support services;
- requesting an investigation by law enforcement;
- applying for emergency appointment of a SDM or suspension or variation of a SDM appointment or termination/replacement of a SDM;
- taking emergency intervention, which may include moving an individual to another residential setting; and
- obtaining medical examination and care.

## **Emergency Intervention**

At any time, and without a court order, the Executive Director can take emergency intervention action to protect an adult living with an intellectual disability, including removing the person to a place of safety if:

- the adult living with an intellectual disability is or is likely to be abused or neglected; or
- there is immediate danger of death or serious harm or deterioration to the physical or mental health of the adult living with an intellectual disability.

## **Right of Entry**

When taking emergency intervention, the Executive Director may, without a court order and using reasonable force, enter any place and take any steps necessary to protect the adult living with an intellectual disability. In fulfilling the right of entry:

- the Department of Families may request a peace officer to assist;
- emergency intervention can take up to five days; and
- SDM power for placement is suspended during periods of emergency.

The adult living with an intellectual disability is to be informed of actions taken or to be taken. In addition, the Executive Director will take all reasonable steps to involve the adult in the investigation and determine and accommodate their wishes regarding the conduct of the investigation.

Within 24 hours of taking emergency action, reasonable steps shall be taken to inform at least one of the following:

- the nearest relative of the individual;
- the current SDM (if applicable);
- committee (if applicable);
- an adult with whom the adult living with an intellectual disability lives; and
- any other person(s) the Executive Director considers necessary.

## RECEIVING A DISCLOSURE

Service providers may receive information about an act of potential abuse or neglect anywhere or from anyone. A reporter may witness incidents of abuse or neglect, hear the information from another person, or hear direct disclosures from adults living with an intellectual disability. These situations can be shocking and disturbing.

In a situation **where a service provider knows about a situation that may constitute abuse or neglect, the service provider should immediately report it to the appropriate authority** (e.g., their supervisor or agency, Executive Director, or CSW). The service provider has a duty to ensure the information is properly reported.

Where a service provider is a witness to an act of potential abuse or neglect, it is important that the witness intervene in some way to stop the action. In some situations, it may be a verbal statement or may involve removing the adult living with an intellectual disability to a safe place. If intervention would place the witness at risk of injury or harm, the witness should call either the police and/or their supervisor for support.

In other situations, a witness may either see physical signs of potential abuse (see Appendix A) or the adult living with an intellectual disability describes a situation alleged to be abuse or neglect. In receiving a disclosure from an adult living with an intellectual disability about suspected abuse, it is important to understand that the service provider is not an investigator.

The service provider plays a supportive role in receiving information and should not ask for more detail. The danger of seeking out information, questioning or probing for more detail is that any investigation conducted by the police and/or the PPIU may be contaminated by these efforts and jeopardize the chances of coming to a definitive conclusion or laying charges.

Service providers are required to make a verbal report to the CSW of any injuries or suspicious marks within 24 hours of an incident or occurrence. The verbal report is to be followed by a written report within five (5) days, documented on a Department of Families-approved incident report form, that is shared with the CSW via fax, secure email, posted mail or in person.

Descriptions of injuries inflicted on an adult living with an intellectual disability or suspicious marks must be objective, factual and based on direct observations, including:

- the location of the injuries or marks on the individual's body; and
- the size using a measurement or comparison (e.g., "round," the size of a "loonie," the width of three (3) fingers) and colour of the injuries or marks.

Additional information to assist with planning includes:

- whether medical attention was received and if so, when, where and with whom the examination occurred, along with its outcome; and
- precipitating events or possible causes of the injuries or marks.

## **DO NOT INVESTIGATE**

**Service providers are not investigators. Report to the Department of Families/Community Living disABILITY Services program.**

**The service provider can support the adult living with an intellectual disability by:**

- offering support and comfort to the person in speaking about their situation;
- ensuring the safety and well-being of the person (e.g., get medical attention if required);
- reporting the incident to a supervisor and/or CSW; and
- documenting details of what was observed or witnessed about the alleged mistreatment and observations of the adult living with an intellectual disability at the time of the disclosure or alleged mistreatment.

**Service providers should follow their human resource policies and procedures regarding employee concerns and performance management.**

**There may be specific circumstances where service providers do not need to wait for an abuse investigation to be completed in order to make human resource decisions regarding the status of an individual's employment with the organization (e.g., choosing to terminate an individual's employment).**

**Up-to-date contact information for an employee under investigation should be provided to the investigators, particularly in the event of termination of employment.**

## REPORTING POSSIBLE ABUSE OR NEGLECT

- An investigation into the potential abuse or neglect of an adult living with an intellectual disability begins with the submission of a report form to the Department of Families. Service providers are required to report suspected abuse or neglect using a Department-approved incident report form. Members of the public may access and submit a report form online at : <https://www.gov.mb.ca/fs/clds/ppiu.html>. Service provider employees are advised to use this electronic reporting tool in the event that the suspected abuse or neglect has been committed by a person(s) in a position of authority at their place of employment. Employees may also report the incident(s) directly to their Department of Families regional office or the PPIU. The police can be contacted at any time.
- The reporter will provide all the information they have about the alleged abuse or neglect in as much detail as possible. The minimum amount of information required is the name of the adult living with an intellectual disability, their address (if known) and why it is believed that the individual is being abused or neglected. Additional information that is needed, but may not always be known by the reporter, includes:
  - the name, address and phone number of the alleged offender;
  - the alleged offender's relationship to the adult living with an intellectual disability; and
  - when and where the alleged incident took place.
- **If a direct service worker believes that an adult living with an intellectual disability is or is likely to be abused or neglected, they must immediately report that belief and the basis of that belief to the Department of Families.**
- While it is mandatory to report any suspicions of abuse or neglect of an adult living with an intellectual disability to the appropriate Department of Families regional office, the reporter **may also report the incident to the police at any time**. The police will determine whether the adult living with an intellectual disability is a victim of a crime and whether an investigation is warranted under the *Criminal Code* of Canada.
- If the adult living with an intellectual disability has a CSW who is known to the reporter, the service provider will report the matter to the CSW.
- If the adult living with an intellectual disability is unknown to the region, the report should be submitted directly to the PPIU.
- If the adult living with an intellectual disability lives in a residential care facility or participates in a day service program, the service provider **must** also forward a written incident report to the closest regional office (please see the contact list in Appendix B). In addition, a residential care facility operator **must** report the alleged abuse or neglect of an adult living with an intellectual disability to the appropriate residential care licensing case manager.

The police should be notified immediately in situations where there is injury, immediate risk of further injury or imminent danger to the persons involved.

# REPORTING TO PROVINCIAL PROTECTION INVESTIGATION UNIT

## PPIU and the Reporting Process

Upon receipt of a report of abuse or neglect, the PPIU will assess all available information to determine whether a formal protection investigation is required.

There are three potential decisions that can be made when reviewing a report of abuse or neglect:

1. the concern is not an occurrence of abuse or neglect;
2. the report identified safety concerns that require safety planning and monitoring; or
3. a formal protection investigation is required.

In situations where the report has identified safety concerns, the CSW and service provider are responsible for safety planning with the adult living with an intellectual disability.

## INVESTIGATION PROCESS

When a referral results in a formal protection investigation under the ALIDA, the information and evidence gathered, actions taken and conclusion will be formally documented by the Department of Families in a **Protection Investigation Report**.

Department staff may contact law enforcement at any time during the review or investigation process if it is in the best interest of the adult living with an intellectual disability. If it appears that the allegation of abuse or neglect may be criminal in nature (e.g., physical, sexual, financial), the agency and/or department staff will discuss the incident with the adult living with an intellectual disability, advise them of their rights and provide support to report the incident to police. Contact with law enforcement (e.g., police service, RCMP, etc.) may involve:

- requesting their involvement in a case;
- providing information for consultation on any matter that may be of a criminal nature;
- providing information on a suspected violation of the *Criminal Code* of Canada; and
- providing evidence of an actual violation of the *Criminal Code* of Canada.

If law enforcement indicates that they are going to take on a formal role with regard to the abuse/neglect allegation, department staff should advise them of their obligation to investigate under Section 22(1) and 22(2) of the ALIDA. PPIU will discuss how to ensure that the investigation requirement under the ALIDA is met and how to proceed in order not to compromise a criminal investigation.



## **Criminal Investigations – Collaboration with Law Enforcement**

The PPIU will conduct concurrent or parallel reviews and investigative processes with law enforcement. As stated above, the ALIDA allows for charges to be brought against anyone that abuses or neglects an adult with an intellectual disability. This is in addition to placement on the Adult Abuse Registry.

## **Health Care Facilities**

Should a concern or incident occur in a health care facility and require a review of the possible abuse or neglect of an adult living with an intellectual disability, Department of Families staff will follow the same investigation and documentation process as in any other setting.

## **Complex Case Review**

Department staff (e.g., CSW, PPIU or other regional staff) may call a complex case review at any point during the incident review and protection investigation process. The purpose of the review is to assist with planning, decision-making or reaching conclusions on difficult cases. The intended result is a clear plan to move forward on the specified case. A complex case review may result from the following elements:

- there are multiple victims and/or multiple offenders;
- a safety plan and/or emergency intervention must be determined;
- there is a potential for charges under the ALIDA;
- a criminal investigation has been initiated or charges have been laid;
- there is difficulty in reaching a conclusion or lack of a consensus on the conclusion submitted on the Protection Investigation Report;
- there are multiple concerns about a home, agency or situation that may not require an investigation; and
- follow-up planning has been undertaken as a result of matters uncovered during an investigation.

Department staff will organize a meeting as part of the complex case review. Reports related to the review will be circulated to all parties attending prior to the meeting date. At the meeting, a department representative will present the case and speak to:

- victim information;
- alleged offender information;
- review and investigation summaries;
- evaluation and analysis of information; and
- outstanding questions or concerns.

## Reporting to the AARC

Under the regulations, the Executive Director must provide a report to the AARC under Section 25.3(1) of the ALIDA if the Executive Director believes a person has abused or neglected an adult living with an intellectual disability. The Executive Director must also report to the AARC if it is believed that the person who has committed the abuse or neglect:

- is employable or may become employable;
- is able to do volunteer work or may be able to do volunteer work;
- did not do so because the high behavioural support needs of the adult were not adequately addressed by the service provider or their employer; and
- used physical force to address or control the behaviour of an adult living with an intellectual disability when it was not harmful to the adult, the person or others.

Interactions are not considered reportable when the person in question acted reasonably:

- to stop or prevent aggressive or self-injuring behaviour of an adult living with an intellectual disability in order to avoid harm to the adult, the person or others;
- in an emergency to preserve the life or safety of an adult living with an intellectual disability; and
- in accordance with the standards of practice and directions of the person's regulatory body if applicable.

As a service provider, a person's actions would not necessarily be considered reportable if:

- they acted within the scope of their duties and in a manner that was consistent with their training; and
- their employer failed to make certain that:
  - o they were appropriately trained and supervised to carry out their duties; and
  - o adequate levels of physical or human resources were available to maintain a reasonable level of safety for the adult.

In addition, under Section 25.3(2) of the ALIDA, if the Executive Director receives a request from the AARC for further information about their report, the Executive Director may investigate the matter and provide the committee with additional information. The designated officer for the region would then be responsible for further investigation of the matter as per the powers of investigation under Section 22(2).

Referrals to the AARC can only be made by the designated officers. These individuals have been delegated the authority to report a substantiated finding to an employer and report the finding to the AARC.

## AFTER THE INVESTIGATION

The primary goals of protection investigations are to ensure the safety and well-being of the adult living with an intellectual disability by preventing further occurrences of abuse or neglect.

At the end of the investigation, the CSW will advise the adult living with an intellectual disability, their SDM (if applicable) and significant others of the outcomes of the investigation. The alleged offender and the employer (if applicable) will also be advised. These outcomes usually include recommendations for the specific situation or persons involved. Some examples include a recommendation for increased supports or resources to help the adult living with an intellectual disability or that the employee receive additional training. Department of Families staff and the service provider are responsible for following up on the recommendations.

Where recommendations are made to an agency, these are forwarded to the agency's Executive Director or designate, who are responsible for informing their board of directors. As legal entity for the agency, the board approves any necessary actions or initiatives. Each board is responsible to ensure the agency has policies for responding to reports of abuse or neglect that are current and consistent with the ALIDA.

Depending on the findings, the response and action may vary for the adult living with an intellectual disability, the alleged offender and the agency. At the conclusion of the investigation, if police lay charges, or there is a criminal conviction, the employer will review the situation and take appropriate action. There can be a variety of responses to the outcome of an investigation including referral of the matter to the person's professional body, dismissal, suspension and/or training. In all situations, the focus will be on reducing risk of any future occurrence of abuse or neglect. Strengthening the circle of support for the individual, providing information and education for them, training or skill development for staff or adding resources are all options/potential outcomes following an investigation.

### Follow-up Activities

In accordance with the ALIDA, upon completion of an investigation, department staff send a letter to the agency (service provider) with the outcome of the investigation. Department staff will advise the adult living with an intellectual disability and their SDM/committee (as applicable) of the outcome. Should abuse or neglect be substantiated and the offender referred to the AARC, the PPIU will advise the service provider of this outcome.

Should an alleged offender have other employers than a CLDS service provider at which they work with vulnerable populations (e.g., children), those employers may be contacted by the PPIU during or after an investigation, after the incident is substantiated and the offender has been placed on the AAR.

The protection investigator may document recommended follow-up actions. The department will communicate these recommendations by way of an in-person meeting and/or in writing to the external parties involved (e.g., service providers, schools, employers, etc.) and receive a response back. Should the external party not respond or respond unfavourably, the department will follow up so that further action can occur.

## **Charges under the ALIDA**

Where abuse or neglect has been substantiated, the Department of Families will consider whether to pursue charges under the ALIDA. If it is agreed that a review is necessary for possible charges, the department will forward an information package to the crown attorney's office.

## **Report to Professional Body**

Where abuse or neglect has been substantiated or an individual has failed to report information in accordance with the ALIDA, the Executive Director may report the matter to the professional or governing body or person responsible for the professional status, certification, license or other authorization of the individual that permits them to perform their work or occupation.

## **Report to Employer**

Following an investigation, if the Executive Director believes that an adult living with an intellectual disability has been abused or neglected and the employment duties of the alleged offender:

- involve the care of an adult living with an intellectual disability, or the provision of support services or other assistance to an adult living with an intellectual disability; or
- permit unsupervised access to adults living with an intellectual disability.

The Executive Director must report the name of the person who abused or neglected the adult to the person's employer, manager or supervisor at the person's place of employment.

## **CONCLUSION**

The ALIDA is legislation that defines and frames the service delivery system for adults living with an intellectual disability. Within the legislation, protection services are outlined including mandated reporters, investigation processes, and powers during an investigation, emergency intervention and/or protective action.

Under the ALIDA, direct service workers are required to report concerns that an adult living with an intellectual disability is or is likely to be abused or neglected.

Service providers have closer affiliation than most others to adults living with an intellectual disability. Often, their knowledge and experience with people enables them to notice when things are not right or if a person is acting out of the ordinary. Observations and experience can help service providers detect concerns or alert investigators.

Service providers have many roles with adults living with an intellectual disability: support person, role model, advocate, mentor and facilitator. One of the most important roles for the service provider is to be a reporter of suspected abuse or neglect. For more detailed information, please contact your local Department of Families regional office.

Protection investigations can be initiated because there is a disclosure from an adult living with an intellectual disability or there is a report from a witness about an incident. In addition, a report is sometimes received from a person who is concerned about an adult living with an intellectual disability either because of physical indications on the individual's body or by the way they behave.

Service providers are essential in recognizing physical or behavioural indicators of a potentially abusive or neglectful situation. The close relationship that a support worker may have with an individual may enable them to observe changes in behaviour whether they occur abruptly or over time. In addition, unusual and uncharacteristic behaviour on the part of a supported person can be signs that abuse or neglect is or has occurred. It is important to realize that most indicators alone cannot confirm abuse. However, they are important to recognize and should be reported to the CSW for further evaluation.

## **ALLEGATIONS AGAINST A SERVICE PROVIDER**

Allegations of abuse/neglect can occur in situations where persons work closely or are in intimate situations with other people. When this happens, investigations must be conducted so that processes and outcomes are fair to everyone.

Alleged offenders should:

- be familiar with the organization's abuse policy;
- be advised, when appropriate, that a protection investigation is underway by the employer, the CSW and/or the police. This notification may occur at different times and the person should not expect many details and may not be told the identity of the alleged victim;
- be advised about what will happen to their employment (e.g., separation from the adult living with an intellectual disability and/or workplace, implementation of a "buddy" system, administrative duties, lay-off without pay, vacation, etc.) according to an agency's policy;
- be advised about what to expect about other investigations (e.g., the CSW will be contacting them);
- be advised as to who will be the primary contact in the investigation;
- seek out support (e.g., employee assistance program, friends, and family);
- expect to feel a variety of emotions (e.g., isolated, angry, scared and/or depressed);
- expect that the investigation may take time;
- expect to be approached for an interview;
- be advised about the outcome of any investigation whether it is conducted by the police, CSW or employer.

In the case of a protection investigation, the following results could be shared:

**Unsubstantiated** – There is insufficient evidence to confirm abuse, neglect or inappropriate conduct occurred as prescribed by the ALIDA under definition of Abuse and Neglect 1(1).

**Inappropriate Conduct** – There is sufficient evidence to confirm that an inappropriate act or omission occurred, however, the act or omission did not cause and was not reasonable likely to have caused: the death of an adult living with an intellectual disability, pain, discomfort or injury, emotional or psychological harm, or significant loss of property to an adult living with an intellectual disability as prescribed by the ALIDA under the definition of Abuse and Neglect 1(1).

**Substantiated** – There is sufficient evidence to confirm that an act or omission occurred that caused or was reasonably likely to have caused: the death of an adult living with an intellectual disability, pain discomfort or injury, emotional or psychological harm, or significant loss of property to an adult living with an intellectual disability as prescribed by the ALIDA under the definition of Abuse and Neglect 1(1).

The service provider should refer to and follow their human resource policies and procedures regarding employee concerns and performance management. There may be specific circumstances where a service provider does not wait for the completion or outcome of an abuse investigation to make human resource decisions (e.g., suspension, termination of employment, etc.) regarding the status of an individual’s employment with the organization.

## PROTECTION INVESTIGATION

**STEP 1:  
DISCLOSE ABUSE OR NEGLECT**

**STEP 2:  
EMERGENCY INTERVENTION AND SAFETY PLANNING**

**STEP 3:  
PROTECTION INVESTIGATION**

**STEP 4:  
EVIDENCE GATHERING AND CONCLUSION OF INVESTIGATION**

**STEP 5:  
IMPLEMENTATION OF PLAN — RECOMMENDATIONS**

**STEP 6:  
REGIONAL FOLLOW-UP AND MONITORING**

# APPENDIX A: POTENTIAL RISK INDICATORS OF ABUSE & NEGLECT

## Indicators of Adult Abuse, Neglect or Exploitation

### ABUSE

- Bed sores
- Bilateral bruises on upper arms
- Black eye
- Broken bones, open wounds, skull fracture
- Broken glasses/frames
- Bruises which resemble an object
- Burns, scalding
- Clustered bruises on trunk
- Fear of caregiver
- Individual has recent or sudden changes in behavior
- Individual is prohibited from being alone with visitors
- Internal injuries
- Multiple/severe bruises, welts
- Old and new bruises
- Overmedicated
- Prolonged interval between injury and treatment
- Restrained, tied to bed, tied to chair, looked in, isolated
- Signs of bone fractures
- Sprains, dislocation, lacerations, cuts, punctures
- Striking, shoving, beating, kicking, scratching
- Unexplained fear
- Untreated injuries
- Untreated medical condition
- Unwarranted suspicion
- Verbal assaults, threats, intimidation

### SEXUAL ABUSE

- Depression or blunted affect
- Direct or coded disclosure of sexual abuse
- Disturbed peer interactions
- Frequent, unexplained physical illness
- Genital or urinary irritation, injury, infection or scarring
- Intense fear reaction to an individual or to people in general
- Mistrust of others
- Nightmares, night terrors, sleep disturbance
- Poor self-esteem
- Presence of a sexually transmitted disease
- Self-destructive activity or suicidal ideation
- Untreated medical condition

## **NEGLECT**

- Accumulated newspaper/debris
- Animal infested living quarters
- Bedsores
- Dehydrated
- Dirt, fleas, lice on person
- Fecal/urine smell
- Hazardous living conditions
- Homelessness
- Inappropriate or inadequate clothing
- Insect infested living quarters
- Lack of food or inadequate food
- Lacks needed supervision
- Malnourished
- Medication not taken as prescribed
- Needs but does not have glasses, hearing aid, dentures, prosthetic device
- No heat, running water, electricity
- Non-functioning toilet
- Soiled bedding/furniture
- Uneaten food over period of time
- Unpaid bills
- Untreated medical condition
- Untreated mental health problem(s)

## **FINANCIAL EXPLOITATION**

- Adult child is financially dependent upon the older person or the older person is dependent on caregiver
- Caregiver is overly frugal
- Change in payee, power of attorney or will
- Checks no longer come to house
- Chronic failure to pay bills
- Depleted bank account
- Excessive payment for care and/or services
- Individual doesn't know what happened to money
- Individual is kept isolated
- Individual reports signing papers and doesn't know what was signed
- Individual unaware of the amount of their income
- Misuse of money of property by another person
- Signatures on check that do not resemble the individual's signature
- Sudden appearance of previously uninvolved relatives/friends
- Transfer of property or savings
- Unexplained cash flow
- Unexplained disappearance of funds, valuables or personal belongings
- Unusual household composition



## APPENDIX B: MANITOBA FAMILIES REGIONAL OFFICES

<b>Provincial Protection Investigation Unit</b>	
2015 Portage Avenue Winnipeg, MB R3J 0K3	204-945-0471 Fax: 204-944-0254

<b>Winnipeg Region</b>	
<b>Community Area</b>	<b>Phone</b>
<b>Centralized Intake</b> 3-1050 Leila Avenue Winnipeg, MB R2P 1W6	204-945-0979 Fax: 204-938-5609
<b>Downtown / Point Douglas</b> 2-111 Rorie Street Winnipeg, MB R3B 3N1	204-948-4001 Fax: 204-948-1334
<b>Fort Garry / River Heights</b> ACCESS Fort Garry 135 Plaza Drive Winnipeg, MB R3T 6E8	204-938-5500 Fax: 204-938-5311
<b>River East / Transcona</b> ACCESS River East 975 Henderson Highway Winnipeg, MB R2K 4L7	204-938-5100 Fax: 204-938-5229
<b>Seven Oaks / Inkster</b> 3 – 1050 Leila Avenue Winnipeg, MB R2P 1W6	204-938-5600 Fax: 204-938-5609
<b>St. Boniface / St. Vital</b> ACCÈS-ACCESS Saint-Boniface 3-170 Goulet Street Winnipeg, MB R2H 0R7	204-945-8040 Fax: 204-948-3282
<b>St. James-Assiniboia</b> ACCESS Winnipeg West 280 Booth Drive Winnipeg, MB R3J 3R5	204-940-2040 Fax: 204-940-2636

<b>Rural and Northern Regions</b>	
<b>Location</b>	<b>Phone</b>
<b>Eastern Region</b>	
<b>Beausejour</b> 20 1st Street Beausejour, MB ROE OCO	204-268-6028 Toll-free: 1-866-576-8546 After-hours (emergency calls only): 1-866-559-6778 Fax: 204-268-6222
<b>Morden</b> 290 North Railway Morden, MB R6M 1S7	204-822-2870 Toll-Free: 1-888-310-0568 Fax: 204-822-2879
<b>Portage la Prairie</b> 25 Tupper Street North Portage la Prairie, MB R1N 3K1	204-239-3110 Toll-free: 1-866-513-2185 After-hours (emergency calls only): 1-866-559-6778 Fax: 204-239-3198
<b>Steinbach</b> 321-323 Main Street Steinbach, MB R5G 1Z2	Toll-free: 1-866-682-9782 Fax: 204-326-9948
<b>Northern Region</b>	
<b>Selkirk</b> 101-446 Main Street Selkirk, MB R1A 1V7	204-785-5106 Toll-free: 1-866-475-0215 After-hours (emergency calls only): 1-866-559-6778 Fax: 204-785-5321
<b>Thompson</b> Box 5 - 59 Elizabeth Drive Thompson, MB R8N 1X4	204-677-6570 Toll-free: 1-866-677-6713 After hours (emergency calls only): 1-866-559-6778 Fax: 204-677-6517
<b>Western Region</b>	
<b>Brandon</b> 340-9th Street Brandon, MB R7A 6C2	204-726-6438 Toll-free: 1-866-726-6438 After hours (emergency calls only): 1-866-559-6778 Fax: 204-726-6539
<b>Dauphin</b> 27 2nd Avenue SW Dauphin, MB R7A 3E5	204-622-2035 Toll-free: 1-866-355-3494 After hours (emergency calls only): 1-866-559-6778 Fax: 204-638-3278

# Service Providers

## When reporting suspicions of abuse and neglect, remember ...

### Support

- the adult living with an intellectual disability by listening to their description of their experience and observing their behaviour.

### Document

- your observations; and
- what is said by everyone involved in their own words.

### Report

- to the police if an adult living with an intellectual disability is in imminent danger;
- to the appropriate person in your agency; and
- to the individual's Community Service Worker.

### Contacts

**Police:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Agency:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

#### Community Service

**Worker:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

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