

## Possible Responses to Financial Abuse of Older Adults

### Informal Responses

<b>Direct Deposit/ PAPs</b> <a href="#">Direct Deposit Guide</a> <a href="#">PAP Guide</a>	<ul style="list-style-type: none"> <li>- set up direct deposit of all incoming pension + other \$</li> <li>- set up pre-authorized payment for regular bills</li> <li>- consider <a href="#">prepaid cards</a> with fixed limits for spending \$</li> </ul>
<b>Joint Bank Account*</b> <a href="#">Joint Accounts</a>	<ul style="list-style-type: none"> <li>- set up joint bank account – for monitoring or accessing \$</li> <li>- will this include 'right of survivorship' or just to help out?</li> <li>- should review dangers of joint account</li> </ul>
<b>Enduring Power of Attorney*</b> <a href="#">Nidus – EPOA Info</a>	<ul style="list-style-type: none"> <li>- appointing trusted person to manage finances + legal affairs</li> <li>- attorney needs to be clear about roles &amp; responsibilities</li> <li>- accounting to older adult + involve older adult in decisions</li> </ul>
<b>Section 7 Representation Agreement*</b> <a href="#">Nidus – s7 RA Info</a>	<ul style="list-style-type: none"> <li>- s. 7 RA can include 'routine financial management</li> <li>- does not include credit cards, loans, mortgages</li> <li>- unless spouse or trust/credit company, monitor required</li> </ul>
<b>Revoking POA or S7 RA</b> <a href="#">Revoke EPOA</a> <a href="#">Revoke RA</a>	<ul style="list-style-type: none"> <li>- can revoke <a href="#">EPOA</a> or <a href="#">s7 RA</a> if attorney or rep acting wrongly</li> <li>- older adult must be capable</li> </ul>
<b>Income Tax Clinics</b> <a href="#">Volunteer Tax Clinics BC</a>	<ul style="list-style-type: none"> <li>- most seniors centres have free income tax clinics</li> <li>- volunteer accountants prepare TIs</li> <li>- these may be necessary to qualify for gov't programs</li> </ul>

### Civil Law Responses

<b>Small Claims Court</b> <a href="#">Small Claims BC</a>	<ul style="list-style-type: none"> <li>- sue for return of funds</li> <li>- can include order for damages, punitive damages</li> <li>- can include order for return of personal property</li> </ul>
<b>BC Supreme Court</b> <a href="#">Self Represented Litigants</a>	<ul style="list-style-type: none"> <li>- order for accounting by attorney</li> <li>- rescission of transactions by attorney/conversion of funds</li> <li>- partition and sale of property – <i>Partition Property Act</i></li> </ul>
<b>Civil Resolution Tribunal</b> <a href="#">Civil Resolution Tribunal</a>	<ul style="list-style-type: none"> <li>- online mediation of disputes</li> <li>- where mediation doesn't work – can go to tribunal</li> </ul>
<b>Patients Property Act</b> <a href="#">Committeeship</a>	<ul style="list-style-type: none"> <li>- declaration older adult incapable + committee appointed (can include committee of person)</li> <li>- committee then has full authority over legal and financial affairs – nullifies any POA</li> <li>- rebuttable presumption a gift, conveyance or transfer to 3rd party is null and void</li> </ul>
<b>Power of Attorney Act</b> <a href="#">POA Act</a>	<ul style="list-style-type: none"> <li>- court can order anyone to release info to the PGT to aid in an investigation</li> <li>- court can void a POA and all actions done under it</li> </ul>
<b>Adult Guardianship Act</b> <a href="#">AGA</a>	<ul style="list-style-type: none"> <li>- a DA can apply to court for a 'support and assistance' order based on a support and assistance plan</li> <li>- court can make a support order under Part 7 of the Family Law Act</li> <li>- order not contact or association with the adult or the adult's financial affairs</li> <li>- services to ensure that the adult's financial affairs are properly managed and protected</li> </ul>

\* - both Powers of Attorney and Joint Bank Accounts can be part of the solution, but also part of the problem.

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### Administrative Responses

<b>Designated Agencies</b> <a href="#">Protecting Adults</a>	<ul style="list-style-type: none"> <li>- health authorities are assigned legal responsibility for responding to reports of abuse, neglect and self-neglect of vulnerable adults – significant right of entry powers</li> <li>- those who report are protected/duty to report offence/ may refer to PGT</li> <li>- can result in support/assistance/restraining orders –</li> </ul>
<b>Public Guardian and Trustee</b> <a href="#">Assessment and Investigation Services</a>	<ul style="list-style-type: none"> <li>- The Assessment and Investigation Services (“AIS”) division of the PG&amp;T takes referrals and reviews allegations of financial abuse of vulnerable adults – <a href="#">AIS Referral Form</a></li> <li>- Power to revoke a POA, freeze bank accounts, prevent property transfers during an investigation - authorized to collect personal information , demand accountings - can apply for committee order</li> </ul>
<b>Federal Pension Trusteeship</b> <a href="#">Pension on behalf of someone else</a>	<ul style="list-style-type: none"> <li>- Agreement to Administer Benefits (CPP/OAS/GIS only) form (<a href="#">ISP3506OAS</a>) and doctor’s ‘Certificate of Incapability OAS/ CPP’ form (<a href="#">ISP3505OAS</a>) – for person or agency (agency or institution form (<a href="#">ISP3507OAS</a>)) - - can be voluntary or involuntary</li> <li>- agencies include many churches and seniors centres including ‘The Bloom Group’ in Vancouver</li> </ul>
<b>Statutory Property Guardian &amp; COI</b> <a href="#">Guide to COI Process under AGA</a>	<ul style="list-style-type: none"> <li>- after a determination of incapacity (medical + functional assessment) a certificate of incapability issued</li> <li>- PGT then becomes statutory property guardian - full authority for legal and financial affairs</li> </ul>
<b>Income Security Programs Investigations</b> <a href="#">Service Canada</a>	<ul style="list-style-type: none"> <li>- Income Security Programs can investigate any misappropriation of pension funds</li> <li>- little information is available on this program</li> <li>- contact Services Canada</li> </ul>
<b>Community Care Licensing Office</b> <a href="#">Complaints Info</a>	<p>investigate complaints about the health, safety or well-being of a person in care at a licensed community care facility.</p>

### Criminal Law Responses

<b>Police Lay Charges</b> <a href="#">Justice BC - Criminal Charges</a>	<ul style="list-style-type: none"> <li>- theft, conversion, embezzlement</li> <li>- fraud, forgery, larceny</li> <li>- criminal exploitation</li> </ul>
<b>Specific Offences POA</b> <a href="#">Criminal Code Provisions - POAs</a>	<p>specific provisions in the Criminal Code of Canada regarding abuses by trustees and attorneys under a POA</p> <ul style="list-style-type: none"> <li>- asset freezes?</li> </ul>
<b>Private Prosecution</b> <a href="#">Private Prosecutions - BC</a>	<ul style="list-style-type: none"> <li>- when police say this is a ‘civil matter’ or too little \$ involved</li> <li>- older adult or agent can ‘lay an information’ before a JP (s 504 + 507.1 of Criminal Code)</li> <li>- will have to conduct own prosecution if summary</li> </ul>
<b>Restitution</b> <a href="#">Restitution Brochure-BC</a>	<ul style="list-style-type: none"> <li>- criminal court judge orders financial compensation to victim from offender once guilty</li> <li>- must be requested in Victim Impact Statement or in letter to Crown + copies of docs</li> <li>- can be condition of probation , or stand-alone order enforceable in civil court</li> </ul>
<b>Victim Services</b> <a href="#">Victim Services - BC</a>	<ul style="list-style-type: none"> <li>- connect people to community, social, health, justice and government resources, including counselling resources.</li> <li>- info on the justice system, relevant federal and provincial legislation and programs, resources as needed.</li> </ul>
<b>Enhanced Sentencing</b> <a href="#">Criminal Sentencing – Elder Abuse</a>	<ul style="list-style-type: none"> <li>- when determining sentence, one of the ‘aggravating circumstances’ a Judge can take into account is “evidence that the offence had a significant impact on the victim, considering their age and other personal circumstances, including their health and financial situation”</li> <li>- while this was called the “elder abuse” amendment, there is no particular age specified</li> </ul>

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