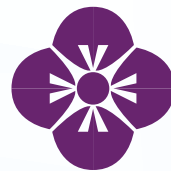


Protect Yourself from Abuse and Fraud

A Guide for Seniors



Public Legal Education
and Information Service
of New Brunswick

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The purpose of this guide is to provide an overview of some legal tools that can help mentally competent seniors to plan for a safe and secure future. It is also a useful resource for family, friends and service providers who may act as a source of information for seniors. The guide refers to several more detailed PLEIS-NB publications on these topics. These and other resources may be included in the Toolkit. There is also a section on safety plans.

Legal tools such as Powers of Attorney and shared bank accounts are sometimes looked at with suspicion because there is a possibility that they could become a source of financial exploitation. Do not let this fear stop you from seeing a lawyer and exploring your legal options. There are more opportunities for someone to take advantage of a senior who has not planned ahead. It is important to choose a trusted individual or professional to act on your behalf if you are no longer capable. The advantages of these legal tools generally outweigh the disadvantages. This guide offers information and tips to help seniors prevent abuse. If you are aware of the possibilities for abuse, you can better protect yourself and your interests when you create these documents.



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SECTION 1.

Planning for a Safe and Secure Future

Planning ahead can bring peace of mind to you and your family

SECTION 1.

Planning for a Safe and Secure Future

There are several legal tools that you can use to help you plan for your future financial and personal well-being. Although these tools do not guarantee that you will not be abused, they can help you to plan ahead for a time when you may become incapable of handling your own affairs.

Whether this happens because of illness, accident, dementia or advanced age, planning ahead can give you peace of mind. It may be reassuring to know that if you are unable to make decisions, the people you most trust will handle your financial matters and make personal care decisions in your best interest. Family members may also find it less stressful to

know that they are following your wishes, rather than trying to figure out what you would have wanted.



The tables in this section give an overview of some legal tools and set out the advantages of having them. Later, **Section 2: Preventing Financial Exploitation**, will cover some of the possible abuses of these legal tools and the measures you can put in place to help prevent abuse. Be sure to share any concerns about abuse with your lawyer who can give you suggestions for how to protect yourself.

For more detailed information, see the booklets ***Powers of Attorney*** and ***When You Can't Manage Your Affairs – Who Will?***, included in the Toolkit.

A. Assistance in Handling Your Financial Matters

In New Brunswick a competent adult may create a Power of Attorney for financial and property matters and/or for personal care. Typically this is done by a lawyer. The person you name to act on your behalf in your POA is called the “attorney” or the “donee”. For more information on how to set up a POA, who you can name as your attorney, what you can include in your POA, and how to end a POA, see the booklet **Powers of Attorney** in the Toolkit.

Let’s explore some advantages of using a POA to help you plan for a safe and secure future.

Power of Attorney for Financial Matters

A POA for financial matters is created under the *Property Act*. It lets you give one or more persons you trust the authority to handle your financial and property matters. This could be for a short term, for a specific purpose. Or it might be in anticipation of a time when you become unable to handle your own financial affairs.

Advantages

- You can choose the person you wish to take care of financial matters on your behalf when you are unable. This is often a trusted family member or friend.
- You can plan ahead so that if you become ill, frail or otherwise unable to act for yourself the person you trust will be legally handling your affairs.
- You can create your document as an “**enduring**” POA. This means that if you do become incompetent, the POA would continue and there would be no need for an assessment of your mental capacity.

B. Assistance in Making Health and Personal Care Decisions

Power of Attorney for Personal Care

Advantages

This type of POA is created under the *Infirm Persons Act*. It lets you decide who you want to make decisions on things like going to a nursing home, health care treatments and end of life care. The person you name as your attorney will have the authority to make your personal and health care decisions when you are unable to do so.

- You can choose one or more people who understands your preferences and whom you trust to make your personal care decisions as you might have done.
- You may have peace of mind knowing that you will continue to receive proper care if you become incompetent.
- Saves your family undue emotional hardship (avoids delay, inconvenience and costs of having to go to court to become your guardian.)

TIP

You can have a **single** Power of Attorney that deals with both financial and personal care matters. Or, you can have **two** separate Powers of Attorney to deal with financial/ property matters and personal care decisions.

C. Tools for Distributing Your Property after Your Death

It's a good idea to have a will. Although you don't have to make one, a will is the best way to be sure the things you own end up in the hands of the people that you want to have them. If you die without a will somebody, usually a family member, would have to apply to the court and request that they be appointed as the administrator of your estate. They would have to distribute your property in fixed shares among the people that the law regards as your closest relatives (according to the *Devolution of Estates Act*). That may not be how you would like to distribute your belongings. This may cause stress and friction among family members who may have thought you intended to leave something to them. See ***Dying Without a Will*** in the toolkit.

Make a Will

A will is a legal document in which you name the people or organizations you wish to give your possessions and property to after you die. A lawyer can explain your options for distributing your property under your will.

See the pamphlets in your Toolkit ***Choosing an Executor, Being an Executor*** and ***Making a Will***.

Advantages

- Lets you distribute your property as you wish rather than the way the law says it should be divided if you die without a will.
- Lets you choose your own executor rather than having the court appoint someone.
- Gives you flexibility in carrying out your wishes.
- Avoids delays and costs – your family will not have to spend time and money applying to the court.

TIP

If you wish to benefit a common-law partner, you should name that person in your will. If you die without a will, they are not entitled to property under the law. However, others whom you may not wish to get your property may be entitled.

D. Options When You Have No One to Appoint

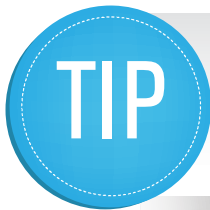
Ask the Public Trustee to Act

The Public Trustee of New Brunswick protects the financial and personal interests of various persons, when there is no one else able and willing to do so. This may include being appointed to handle their financial matters, act as a legal guardian (committee of the estate/person), administer the estate, and so on.

There is a fee for public trustee services that is based on the client's ability to pay.

Advantages

- If a person has no family members or friends who are able to apply to be appointed as a Committee, a Public Trustee may be appointed. Public Trustee services are administered by the New Brunswick Legal Aid Services Commission.
- The Public Trustee may act as a Committee of the Estate and/or Person to make decisions about finances or property and/or to make decisions about personal care. Any individual can make a referral in writing to the Public Trustee by completing the application for the services required.



For more information about the Public Trustee, go to the New Brunswick Legal Aid Services Commission website at www.legalaid.nb.ca.

Consequences of not legally appointing someone to act on your behalf.

If you do become incompetent, someone must apply to the Court to become your **Committee of the Estate and/or Person**. You should know the following:

Committee of the Estate and or Person

Sometimes it is necessary for a court to declare a person mentally incompetent or infirm and appoint another person or group of people to make decisions on his or her behalf. In some cases, a relative or friend may apply to the court to appoint them as the guardian of the mentally incompetent person. In New Brunswick this process is governed by the *Infirm Persons Act*.

If you have not planned ahead, and there is no family member able to apply to the court, a **Public Trustee** may be appointed.

Reasons to Avoid

- This process is often emotionally difficult and time consuming, not to mention expensive. In this situation, you would be required to have a mental competency assessment which can cause confusion, embarrassment and negative stereotypes.
- Having someone challenge your mental competency may also feel as though they are challenging your independence and dignity.

TIP

If you plan ahead, you should be able to avoid placing someone in the position of having to take legal action in the courts to become responsible for your financial and personal well-being. For more information see the booklets called ***When You Can't Manage Your Affairs – Who Will?*** and ***Mental Competence***.

E. Other Legal Tools

Set up Shared Ownership

You should talk to a lawyer for advice on some of the ways that you might handle your financial matters outside of a will.

For example, people can share ownership in bank accounts, stocks, bonds, real estate and motor vehicles.

Advantages

- This allows you and another person to use these items such as a bank account.
- You should check with a lawyer to be sure you set this up the way you intend.
- Do you want the person you have joint ownership with to own the property/money when you pass away, or do you want it to become part of the estate to be divided among other beneficiaries? Your lawyer can advise you how to proceed so that your wishes are followed.

Create a Life Tenancy with Someone You Trust

You can transfer (give or sell) your property to another person such as a family member, on the condition that you are allowed to live there as long as you want.

Advantages

- You can create life tenancies with anyone you trust.
- You can specify in a life tenancy who has to take care of the property and pay the bills.
- Your interest in the property lasts for your lifetime.

F. Thinking About Your Funeral Plans

A Pre-arranged Funeral Service Plan

You can contract with a licensed funeral home to provide you with a plan for funeral services after you die. Be sure that you get a copy of the signed standard form of pre-arranged funeral plan. Rather than putting funeral plans in a will, which may not be read until after the funeral, give your executor a copy of your plan when you make it.

Advantages

- You can plan your funeral while you are living.
- You can pay a lump sum in advance or installments.
- You will save your family or your executor from having to decide your funeral arrangements and pay for them.
- You may have peace of mind knowing your family will not have to deal with these decisions at the time of your death.

TIP

It is possible to purchase insurance to help cover the costs of your funeral. It is important to understand the difference. This does not mean your funeral is pre-planned. Without making arrangements at the funeral home you haven't bought a funeral service, you have only purchased insurance to help cover the costs.

Your Pre-arranged Funeral Service Contract

By law, all contract for pre-arranged funeral services must include:

- A detailed description of the goods and services covered by the plan.
- A detailed description of the goods and services not covered by the plan.
- The place where the funeral services are to be performed.
- Other information relating to termination of the plan and payment schedules

If you wish to make additions to the contract, they must not conflict with the rights or duties set out in the *Pre-arranged Funeral Services Act*. It is a good idea to seek legal advice before making any changes. For more information, visit the Financial and Consumer Services Commission website at: www.fcnb.ca/pre-arranged-funeral.html.



SECTION 2. Preventing Financial Exploitation

Using legal tools to protect
you and your property

SECTION 2.

Preventing Financial Exploitation

Most of us think that fraud is committed by strangers. Unfortunately, fraud against seniors can also be committed by family members. When this happens it is still fraud. Family members are more likely to financially exploit a senior they know by abusing a Power of Attorney, using the senior's money for their own benefit, or attempting to influence the senior to give them money.

Section 1 provided an overview of some legal tools and the ways they may be helpful. This section explains some of the ways that these very tools might result in financial exploitation, for example if the person named as your “attorney” inappropriately uses the Power of Attorney for their own advantage. Don't let this stop you from seeing a lawyer and exploring your legal options. If you are aware of the possibilities for abuse, you can better protect yourself and your interests when you create these documents.

Possible Abuse of

Powers of Attorney

The person you choose to handle your finances may be dishonest and steal money from your accounts – or they may be incompetent and mismanage your affairs.

Tips to Prevent Abuse

- Consult a lawyer to be sure you understand all of the legal requirements for creating a valid document.
- Ask the person you want to handle your affairs if they are willing. Discuss whether the attorney will get a fee, and if so, include a provision for payment in your POA. Remember, you can appoint more than one person as your attorney.

Possible Abuse of

Powers of Attorney

The person handling your finances may feel they deserve to be compensated and may use some of your money for their own benefit.

The person may deposit your pension cheques into their own account.

Tips to Prevent Abuse

- Choose someone you trust. Choose an honest, responsible person with experience (paying bills, keeping records). Think twice about appointing someone who is having their own financial hardships.
- Know your financial situation. Ask your attorney to keep you apprised of the financial matters they are handling for you such as investments, paying a variety of monthly bills, property tax, and so on. If you are able to, stay aware of your financial matters. Be on the alert for any unexplained withdrawals.
- Don't give your PIN to anyone – deposit your own cheques and make withdrawals. If you can't do this, arrange for automatic deposit of your pension cheques and other income sources.
- Inform others about your POA – your family, doctor, and bank.

TIP

If you suspect the person handling your finances is stealing your money, contact the police.

Powers of Attorney for Personal Care

The person handling your personal care may not be aware of your wishes.

The person may not respect your wishes.

The person may believe they have the right to change your will or be a beneficiary of your life insurance policy.

Tips to Prevent Abuse

- Consult a lawyer to be sure you understand all of the legal requirements for creating a valid document. Talk to the person(s) you want to make your personal care decisions.
- Consider the important personal and healthcare decisions that you anticipate your attorney will have to make when you are unable to do so. For example, if you have to go to a nursing home:
 - Where would you like to go?
 - What are your wishes for end of life care?
- Discuss your wishes for care and treatment with the person who is going to act on your behalf.
- Know that your attorney cannot make a will on your behalf or change your existing will. They have no authority to change your beneficiaries nor can they give their powers as your attorney to anyone else not named in your POA.

Possible Abuse of

Powers of Attorney for Personal Care

The person may try to tell you what to do and make decisions about your care when you feel that you are still capable of, and wish to, make your own decisions.

The person may try to control of all aspects of your life, like who can visit you, where you can go, etc.

The person may threaten to put you in a nursing home.

Tips to Prevent Abuse

- If you are concerned about abuse, consider creating two separate POAs and appointing separate attorneys to handle financial and personal matters. Or, consider having multiple attorneys who must act together when making decisions on your behalf. This can slow down decisions, but it may prevent abuse by one person.
- If there is no trusted individual available to act as your attorney, contact the Public Trustee about acting as your attorney or choose a professional.
- Going to a nursing home is voluntary. Nobody can force a competent person to have an assessment or go to a nursing home. See the booklet in your Toolkit ***Going to a Nursing Home.***

TIP

If you are mentally competent and your attorney is not handling your affairs in an appropriate manner, you can change or revoke your POA at any time.

A Will

Individuals who are not named in your will may try to influence you to change your will.

Family members may take possessions or property that you wish to leave to others in your will.

Individuals who do not like the way you plan to distribute your estate may not respect your wishes.

For more information on making a will and choosing an executor, see the series of pamphlets in the Toolkit on *Wills and Estate Planning*.

Tips to Prevent Abuse

- Consult a lawyer. Make sure your executor has agreed to act in that role and appoint an alternate.
- Consider how you wish to distribute your estate. Do you want to leave bequests of specific items? To whom will you leave the remainder of your estate? Spouse? Children? Charities? If one of your beneficiaries has died, who do you wish to receive that person's share? Do you want the beneficiaries to receive it immediately or at some future time?
- Keep your original will in a safe place, such as a fireproof strong box in your home, or a safety deposit box at your bank.
- Review your will every few years especially if there are life changes that affect the will such as divorce, marriage, a change in assets, etc.
- Be aware that marriage may revoke a previous will – and family members that you wish to benefit may no longer get what you wanted them to have.

TIP

Your will is a private document and you do not have to share the contents with anyone.

Possible Abuse of

Shared Ownership

The other person may take over control of the joint property and possibly squander the assets.

Tips to Prevent Abuse

- Before you set up joint ownership, talk to your lawyer about how it might affect the way your property is distributed by your will.
- Make sure you have shared ownership with a trusted family member who will use the money in the account to pay for YOUR expenses.

Life Tenancies

After transferring your property, the person with shared ownership may not honour the life tenancy. For example, they may suggest that you should be in a nursing home or tell you to live elsewhere.

The person with shared ownership may not take care of the property or pay the taxes and other bills as they had promised.

Tips to Prevent Abuse

- A lawyer can tell you more about how to protect yourself if you set up a life tenancy.
- Make sure you have set up a life tenancy with a trusted family member who will respect your agreement.

Possible Abuse of

Pre-arranged Funeral Service Plan

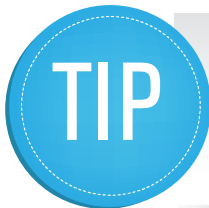
Your family may argue over your wishes for your funeral and attempt to change the provisions of your contract.

Your family may discover that you have not paid for some of the services that you expected to get – and will not, or cannot pay for them.

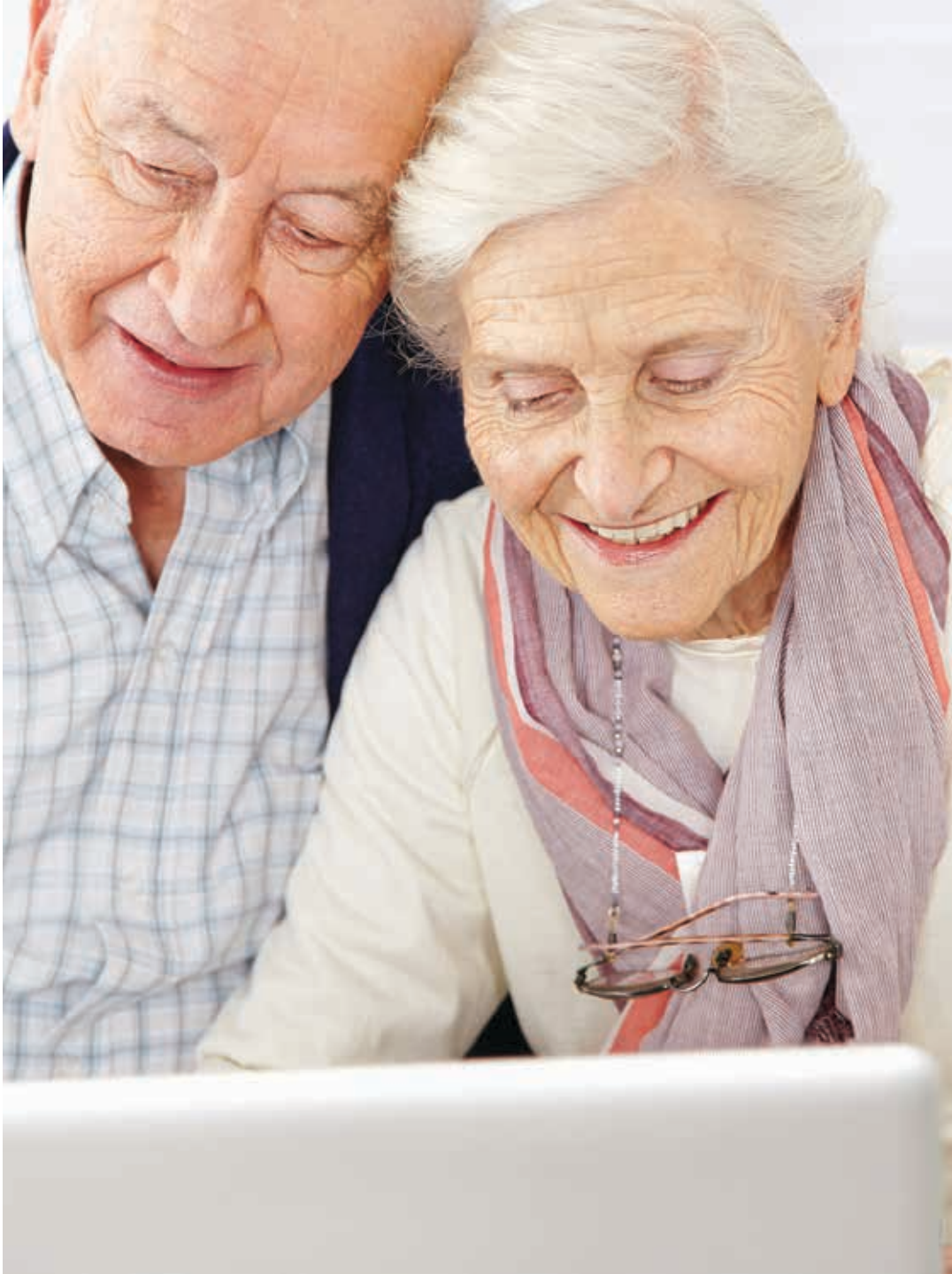
You thought your plan was for a funeral service, but you purchased “insurance” towards your funeral plan and your family or executor has to decide your funeral arrangements.

Tips to Prevent Abuse

- Discuss your plans with family members so they are aware of your wishes and what you are purchasing.
- Give your executor a copy of the signed contract, Standard Form for Pre-Arranged Funeral Plans. Make sure they are aware of what is covered under the contract.
- Don't put your funeral plans into your will – it may not be read until after the funeral.
- If you wish to make additions to or confirm the provisions of the contract, it is a good idea to seek legal advice.



For a **Financial Concerns Checklist** see **Helpful Resources** in the Toolkit, or visit www.fcnb.ca/senior-financial-abuse-prevention.ca



SECTION 3. Preventing Fraud

There are over 50 different types of fraud – know how to protect yourself

SECTION 3.

Preventing Fraud

Financial abuse of a senior is any act involving the misuse of the senior's money or property without their full knowledge and consent. The abuser could be a stranger, but it could be a family member, friend or neighbour. This section of the guide focuses on the five most common categories of fraud experienced by seniors:

- ◆ door-to-door sales fraud,
- ◆ investment fraud,
- ◆ telemarketing fraud,
- ◆ prize/contest fraud, *and*
- ◆ identity fraud.

Why Seniors are Vulnerable to Fraud

Seniors are at increased risk of being targeted by con artists largely because:

- many seniors have substantial savings or assets
- scammers assume that seniors will be more trusting
- seniors often feel they should be polite towards strangers
- seniors are more likely to be home alone during the day

Frauds (or scams) come in many forms. There are over **50** different types of fraud that have been classified and reported in Canada. Being familiar with the common scams will help you be prepared to detect and avoid being a victim of con artists.

FACT

Phone Busters reports that Canadians lost \$24,095,234 in a single calendar year on mass marketing fraud.

A. Know the Common Types of Fraud

Door-to-Door Sales Fraud

The person at your door seems genuine and will tell you they just happened to be in the area. These individuals will appear friendly and knowledgeable.

They may also tell you they can give you a “special deal” but that you must decide right away. Con artists will offer any service whether you need it or not. It may be for home repair, a service or a product. They may offer “special senior discounts” but end up charging amounts exceeding three to four times fair market prices.

How to Avoid

- Ask to see the person's license. Under the *Direct Sellers Act*, door-to-door salespersons are generally required to be licensed and bonded, and to carry this license with them to prove they are associated with a licensed company. These licenses are non-transferable. To help protect consumers, direct sellers must undergo a criminal record check.
- Do not be fooled by con artists. If their deal sounds too good to be true, it probably is.
- Do not feel pressured to sign any contract with them at your door. If the deal is legitimate it can wait a day.
- Do not let the person inside your home and never leave them alone. If you feel threatened ask the person to leave.

TIP

Learn more about direct sellers at:
fcnb.ca/Door-to-door.html

A. Know the Common Types of Fraud

Investment Fraud

How to Avoid

After retirement, you may depend more on your investment income. If someone tells you about an opportunity to make lots of money quickly with no risk, be suspicious and ask lots of questions. For example, a con artist might offer quick profits on an investment that does not really exist. These fraudulent transactions usually claim to be:

- ◆ Highly profitable
- ◆ Totally risk free, *and*
- ◆ Extremely secretive

- Know that the higher the possible return or profit, the higher the risk. If anyone claims a highly profitable investment has no risk or that your profit is guaranteed. **DON'T BELIEVE THEM.**
- If someone offers you a legitimate investment opportunity check with FCNB to see if they are registered. Unregistered activity is a red flag and warning sign.
- If the offer is supposed to be secret, be suspicious. Get a second opinion. It is always a good idea to consult a financial professional before you invest your money.
- Learn more about investment fraud by visiting the Financial and Consumer Services Commission (FCNB) website at: www.nbsc-cvmnb.ca/nbsc/home.jsp and check out fcnb.ca/B4U-Invest.html

TIP

Not every investment that doesn't pay off is a fraud. Fraud involves the use of deception to obtain your money or property. If the investment was done in good faith it was not fraud.

A. Know the Common Types of Fraud

Telemarketing Fraud

How to Avoid

Telephone con artists manipulate the information they tell you. They hide information about themselves and tell you lies. They may impersonate a legitimate business to trick you into believing them.

Telemarketing con artists reach a large number of victims on the phone quickly and across provincial and national borders from one location. Millions of people have been defrauded – a large portion of whom are seniors.

- Be cautious of scam artists who claim to represent a charity you are not familiar with. They may say that you need to buy something or pay a fee to win a prize.
- If someone asks for your credit card, bank account information or social insurance number, say “NO” and hang up.
- Do not feel pressured to act or respond.

FACT

According to a Phone Busters report, people over 60 accounted for 84% of the total money lost through prize and lottery fraud.

A. Know the Common Types of Fraud

Prize/Contest Fraud

This scam can take many forms: telephone, mail or internet.

The caller or email says that you have won a valuable prize or free trip but first you must send a payment to cover taxes, transportation, and insurance or legal fees.

How to Avoid

- Be suspicious of any call or email that claims you have won a prize (for example, a free cruise) when you do not remember entering a contest.
- If you really were a winner, you would not have to pay for your prize. Never send any money in advance.
- Remember these callers can be very convincing so always be sure to check it out first.

A. Know the Common Types of Fraud

Identity Fraud

How to Avoid

Identity fraud or theft is when someone uses your personal information to make transactions as if they were you. This includes when someone uses your credit cards, opens new banking accounts or accesses your accounts without your knowing. Identity fraud can happen when someone obtains documents or information from you such as: bank cards, SIN number, driver's license, birth certificate, address, phone number or PIN numbers.

Being a victim of identity fraud can have severe and long term effects.

- It is important to secure any documentation that might give a scam artist your private information. Shred any documentation with personal information before throwing it in the trash.
- The Financial Consumer Agency of Canada advises all consumers to check their credit report at least once a year for signs that you have been a victim of identity fraud. It is free and easy to do and lets you see if someone may have opened up an account or taken out a bank loan in your name.
- If you notice something wrong on the report, call your financial institutions and the credit reporting agency right away.



You should check your credit report annually at both of these companies:

Equifax Canada: www.consumer.equifax.ca/home/en_ca and
TransUnion Canada: www.transunion.ca. You can get a free report by making a request by mail, or you can pay for an on-line report.

B. Tips to Avoid Being a Victim of Fraud

Whether you are dealing with a door-to-door salesperson, telemarketer, email or a letter, **here are some DOs to help you avoid becoming a victim of fraud:**

DO call a friend, relative, or the police before making any decision to send money to someone who contacted you by phone, email or over the internet.

DO call the police and the Financial and Consumer Services Commission to report any suspicious phone calls or activity.

DO continue to ask questions about any offer or promotion until you fully understand the details and any risks involved. If it sounds too good to be true, it probably is.

DO ask the salesperson for references from other customers who live in your area and ask to see his/her license.

DO destroy documents with your personal information by shredding them.

DO keep identification documents (such as SIN cards and birth certificates) in a safe place.

DO check your credit report once a year to confirm all the information on it is correct.

TIP

If you don't know who sent you an email or the person knocking at the door **DO NOT** automatically trust them.

ASK QUESTIONS!

Here are some **DON'Ts** to help you avoid becoming a victim of fraud:

DON'T believe everyone who calls or emails with an exciting promotion or investment opportunity. Not everyone is really a “winner”.

DON'T give out personal information about your bank accounts, credit cards or address over the telephone or through email.

DON'T send any money unless you have confirmed that the offer is legitimate.

DON'T be afraid to hang up on a telemarketer.

DON'T be afraid to ask for documentation to verify a product or investment.

DON'T be pressured into making a decision. Any legitimate offer or prize will still be available tomorrow.

DON'T pay to win a prize or enter a contest – prizes are supposed to be free.

DON'T carry your SIN card with you in your wallet.

DON'T keep your PIN or other passwords in your wallet and don't share them with others.

If you answer the telephone and think it may be a scam try saying:

“I'm sorry, but due to the large amount of telephone fraud we do not do business or answer surveys over the phone.”

OR

“No, I am not interested. Please remove my phone number from your calling list immediately.”

C. Taking Action

If you are the victim of a fraud, or suspect that someone is attempting to defraud or scam you, you can:

- Report it to your local police or RCMP. Do not be embarrassed, reporting the fraud can help stop it from happening to other people.
- Make a complaint to the **Financial and Consumer Services Commission of New Brunswick (FCNB)**.

If you are an investor or consumer who is the victim of unfair, improper or fraudulent practices, contact the Financial and Consumer Services Commission. It is their job to help protect consumers and investors. Go to www.FCNB.ca where you can click on “complaints” to use their secure online form to make your complaint.

If you prefer, you can download their printer-friendly form. Just provide the requested detailed information and send it to them by email, mail or fax.

FCNB, 85 Charlotte Street, Suite 300
Saint John, NB E2L 2J2
Fax: 506-658-3059 Email: info@fcnb.ca
If you wish to speak to someone in person, call 1-866 933-2222.

- Get information or report a fraud to:

PhoneBusters

Toll Free: 1-888-495-8501

Fax: (705) 494-4755

Toll Free Fax: 1-888-654-9426

Email: info@phonebusters.com

Competition Bureau

1-800-348-5358

www.cb-bc.gc.ca

Email: compbureau@cb-bc.gc.ca

- Report to your bank or credit card provider

If your credit card or banking card has been compromised or stolen let your service provider (credit card company or bank) know. Also, contact your local police or RCMP as soon as you are aware of a theft.

Reporting credit card theft or identity theft to the credit reporting companies makes them aware that someone may try to open a new account in your name.



SECTION 4. Preventing Other Forms of Abuse and Neglect

Learn the facts about elder
abuse and how to get help

SECTION 4.

Preventing Other Forms of Abuse and Neglect

Senior abuse, also called elder abuse, is any act or behaviour which harms a person who is 65 years of age or older. This section of the guide will offer some information on the prevention of other forms of abuse such as physical, emotional/psychological, chemical and neglect.

A. Types of Abuse

Type of Abuse	Definition	Signs of Abuse
Physical Abuse	<ul style="list-style-type: none"> Any act of violence or rough treatment that causes injury or discomfort, such as slapping, pushing or hitting. It may include the use of physical restraints. 	<ul style="list-style-type: none"> ■ fear of caregivers ■ unexplained injuries ■ delay in seeking treatment ■ unusual patterns of bruises ■ history of changing doctors ■ scalp injuries

Type of Abuse

Definition

Signs of Abuse

Psychological/ Emotional Abuse

Any act which lowers a person's dignity and self-worth. This may include regularly yelling at, criticizing, threatening, humiliating or isolating the senior. This can also include spiritual abuse, such as preventing the senior from attending church or worship services, and/or mocking the senior's religious beliefs.

- low self-esteem
- appears nervous around caregiver
- confusion
- suicidal
- avoids eye contact with caregiver
- fear of abandonment
- lethargic/withdrawn

Chemical Abuse

Any misuse of medications and prescriptions, including withholding medication and over-medicating.

- overly sedated or lethargic
- overly anxious or agitated
- disorientation, confusion
- sudden changes in mood
- failure to fill prescriptions

Type of Abuse

Definition

Signs of Abuse

Sexual Abuse

Any unwanted sexual act. This may include unwanted touching, kissing or fondling.

- unusual fear of person
- stained, torn or bloody clothes
- pain and bruising
- change in sexual behaviour
- sexually transmitted infections (STI)

Financial Abuse

See Section 2

Any act involving the misuse of the senior's money or property without their full knowledge and consent. This includes theft of money, pension cheques or property as well as misuse of their authority under a Power of Attorney.

- unexplained missing items
- failure to pay bills
- inaccurate knowledge of finances
- suddenly changing a will
- going without affordable necessities
- unusual withdrawals from bank account

Type of Abuse

Definition

Signs of Abuse

Neglect

- | Neglect happens when a caregiver does not properly care for and attend to a senior who cannot fully look after him or herself. It may include withholding food, personal hygiene care, health services, clothing, help or companionship.
- | Neglect may also be self-neglect. This happens when a person refuses, delays or is unable to arrange for his or her own care and attention.

- malnourished
- wandering without supervision
- lack of heat/electricity
- unkempt appearance
- missing dentures, glasses, hearing aids
- skin conditions or pressure sores
- untreated medical problems
- alcohol or medication abuse

TIP

For more information, see the booklet ***Preventing Abuse and Neglect of Seniors*** in your Toolkit.

B. How the Law Protects Seniors from Abuse

Abuse most often happens in situations where a senior is dependent, vulnerable and isolated. The Department of Social Development has several programs that offer support and services for seniors. One program that can help when a caregiver abuses or neglects a senior is **adult protection**. Adult protection legislation in New Brunswick is found in the *Family Services Act*. It defines an “adult in need of protection” as a person aged 65 years or older, or a disabled adult over the age of 19, who:

- is incapable of properly caring for her or himself because of a mental or physical disability, *and*
- is being abused and neglected, *or*
- refuses, delays or is unable to remove him or herself from the abusive situation.

“Disability” is defined as a physical, communication or intellectual impairment which greatly limits the ability to carry out normal daily activities.



Adult protection has the authority to investigate and help when a senior is being abused or neglected. If you are unsure whether your situation is abuse or neglect, do not hesitate to contact adult protection to see what help may be available to you. See **Section 6** of this guide for contact information.

Adult protection does not cover financial abuse unless there is also neglect or physical, emotional or sexual abuse. Situations of financial exploitation (for example, fraud or financial scams), should be reported to the police and the Financial and Consumer Services Commission of New Brunswick.

To prevent abuse, family and friends, including neighbours, religious leaders, and community members, should be part of the solution. Everyone can play a role. It starts with becoming aware of the potential for senior abuse, recognizing the signs, offering assistance, and reaching out to reduce isolation. It also includes encouraging seniors to reach out when they need help. They are more likely to do that when they feel that they are valued and that others care about their well-being.

For more information on the adult protection investigation process, you should read the booklet ***Preventing Abuse and Neglect of Seniors***.

C. Seniors and Family Violence

Family violence refers to the various forms of abuse described in Table A at the hands of an intimate partner. Family violence is sometimes referred to as domestic violence, spousal abuse or “intimate partner violence”. Although anyone can experience family violence, women are much more likely to be victims than men.

Certain forms of family violence are against the law, such as uttering threats or physical or



sexual abuse. Family violence is not something that only happens to younger women. If you have been treated abusively by your partner in the past, the abuse is likely to continue as you get older. The best predictor of future abuse is past abuse. Spousal abuse does not transform into senior abuse just because you turn 65.

Dynamics of Abuse Can Change with Age

Sometimes, with age, the dynamics of abuse may change. Perhaps the abusive partner has become ill or frail. The earlier victim of family



violence may become the caregiver. That may affect the quality and nature of the care that they provide to their spouse. Poor health may also increase the need for medication and treatment. Limiting access or overusing medication to keep someone sedated is a form of abuse, referred to

as **chemical abuse**. Restraining someone for long periods of time, such as tying them up overnight so they won't bother you, is a form of **physical abuse**.

No matter the relationship or history of the victim and abuser, the police can lay charges if they have reasonable and probable grounds that a crime has been committed. It is important that such treatment be reported to the police.

Remember that all forms of abuse are unacceptable. Even abuse that may not be considered criminal in nature, such as name calling and put downs, is unacceptable.

If the police can't help you, you should look for help from other sources such as family, friends, community agencies, transition houses and outreach services.

D. Dating and Common-law Relationships



Dating can create another new set of dynamics when it comes to the potential for abuse and for loss of control over finances and property. As older adults become

involved in dating relationships or common-law arrangements, they may worry about the emergence of obligations that they had not anticipated, such as having to pay support to someone if the relationship breaks up.

If you are dating, it makes sense to find out how a new relationship might affect your legal rights and responsibilities. Many of the common questions that arise about property and support obligations when older adults enter new relationships can be found in the booklet ***Are You Dating? Older Adults and Healthy Relationships***, found in your Toolkit.

Some common concerns when dating include:

- **After dating for a long time, would my friend have a right to my property or money?** Just because you have been dating a long time, does not mean your partner has a right to your property and assets. If you plan to move in together, you should talk to a lawyer about how this might change your situation.
- **If we decide to live together, will our rights change?** Not necessarily. When a couple lives together it is called a common-law relationship. Living together is not the same as being legally married. You will not have an automatic right to half of one another's property. If you are not living together, neither one of you have an obligation to support the other if you break up. However, if you live together for three years or more and depend on the other person for support, he or she may have a legal duty to support you if the relationship ends. You should get legal advice about your rights.

TIP

For more information about the rights and obligations of common-law partners, go to www.familylawnb.ca and check out the booklets *When Couples Separate*, *Living Common-law*, *Domestic Contracts* and *Marital Property*.

Tips on Protecting Your Property

- **Get legal advice:** The best way to protect your property interests is to see a lawyer and enter into a **domestic contract** with a new partner. This is a written agreement between you and your partner. It is called a **cohabitation agreement**. It sets out your rights and responsibilities to each other such as: who owns the property, how property will be divided if you separate, and support obligations. You should each talk to a different lawyer. Your lawyer will explain how your agreement will affect your rights and responsibilities.
- **Don't co-sign for your partners debts:** You are not responsible for the debts of your common-law partner unless you have co-signed a loan for them or you have signed a contract agreeing to pay for them. However, if you later separate and your partner applies to the Court for a division of property and debts, the Court may order you to contribute based on your specific situation. Unlike a legally married couple who separates, the division of property and debts is not an automatic right.
- **Keep proof of your purchases:** If you and your partner buy something together, such as furniture or a car, you both own it. Make sure you keep proof of payments (such as receipts) and indicate who paid for the item.
- **Change or update your will:** If you die without a will, your common-law partner is not entitled to your property. See ***Dying Without a Will***. If you want your common-law partner to have something when you die, you will need to update your will as soon as possible by contacting your lawyer. However, if you do not want to leave anything to your partner, then you do not have to change your will.
- **Know your support obligations:** You may have a legal duty to support certain people, such as a common-law partner, if they depend on you for support. If you do not adequately provide for them or include them in your will, they may apply to the court for some financial support from your estate under the *Provision for Dependants Act*.

E. Preventing Financial Exploitation, Fraud and Abuse

While you are healthy and capable, think about creating some of the legal tools mentioned in **Section 1**. Legal tools are only part of the solution. You should also take steps to reduce your isolation. Consider volunteering in your community. That's one way to get out, meet new friends and reduce isolation. It is less likely that you will be abused if you have surrounded yourself with a network of caring friends and family members who are checking in on you. Not sure where you would like to volunteer? Check out our **Volunteer Self Assessment Quiz** in your Toolkit.

What You Can Do to Protect Yourself from Abuse



- Keep up your relationships with friends.
- Learn to recognize the signs of abuse and neglect.
- Report any abusive activity.
- Keep your money in a bank.
- Keep your valuables in a safety deposit box.
- Know your financial position.
- Deposit your own pension or disability cheques or arrange for direct deposit.
- Join a seniors' group or service club.
- Understand your rights as much as possible.
- Talk to the abuser about your feelings, if you feel comfortable and safe doing so.
- Find out about support services.
- Leave.

What You Can Do if You Are Experiencing Abuse

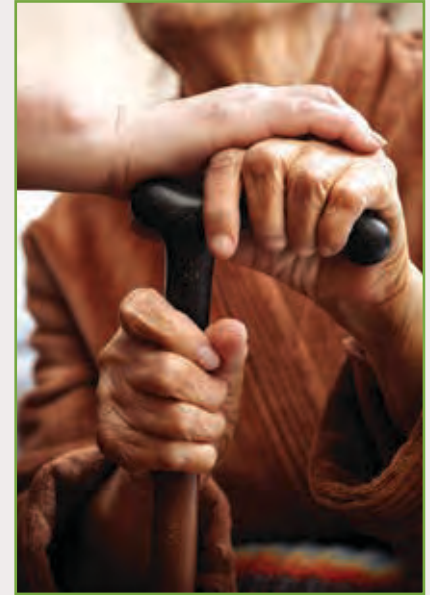
- Don't be afraid to ask for help.



- Talk to family members or friends privately.
- Talk to your doctor, counsellor, religious leader or other member of your faith community.
- Make sure the other person is listening to what you are saying.
- Explain what is happening.
- If possible, write down a list of the abuse you are experiencing and share it with another person.
- Ask for patience. If the other person seems to be upset at what you are saying, tell them that you need for them to be calm.
- Ask for suggestions and options for dealing with the abuse.
- Tell them you value their opinion. Discuss the advantages and disadvantages of each option.
- Ask for referrals to others who are able to help.
- Don't be pressured into doing something you don't want, rather choose the most appropriate option for your situation.
- Make your own decision.
- Report abuse to Social Development and/or call the police.
- Ask the person to come with you when you tell the police or contact Social Development.

What You Can do to Help Another Senior

- Keep close ties with older relatives and friends.
- Learn to recognize the signs of abuse and neglect.
- Discuss any signs of abuse or neglect.
- Suggest counselling for the family and tell them about support services.
- When appropriate, offer advice on financial matters.
- Try to reduce the stress in the family.
- Find ways to limit the person's isolation.
- Contact the Department of Social Development and ask for help.

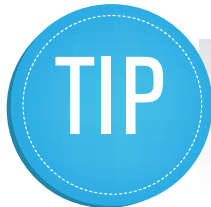


TIP

Don't wait for others to step in. Friends and neighbours may suspect abuse, but people often feel that they should not meddle in someone else's private family matter.

How the Community Can Help

- Never tolerate abusive behaviour.
- Reach out if you suspect abuse.
- Suggest counselling services and self-help groups for seniors and their caregivers.
- Make sure that available programs and services are publicized.
- Educate the public on the aging process.
- Create a network of support and advocacy for seniors and their families.



Be aware of services and abuse prevention resources for Newcomers to Canada and Aboriginal people. See **Section 6 - Services and Resources.**



SECTION 5. Making a Safety Plan

Know where to go and what to do if you are experiencing abuse

SECTION 5.

Making a Safety Plan

Abuse can happen at the hands of a spouse, family member, neighbour, service provider, or stranger. The following planning tools are intended for seniors who are able to make and act on their own decisions. They are particularly helpful to individuals who have been living with an abusive partner or family member and who may have to leave the home suddenly if the situation turns violent.

Even if you are not planning to leave your home, it is important to plan ahead in case the violence escalates and you have to get out quickly. Making a **Safety Plan** will help you know what to do and who to contact if you have to leave in an emergency.

A. Elements of an Emergency Safety Plan

Although you do not have control over the abuse, you can choose how to respond to it and how to best get to safety. Keep this plan in a safe place.



- **Find a safe place to go in an emergency:** Know where you can go to be safe, if only to make a phone call. Speak to your neighbours or someone you can trust. Let them know what's going on so they can be watching out for you and call the police if they become concerned. If you have no where to go, consider an emergency shelter.
- **Know how you will get there:** Are you able to walk to safety? Is there someone who can come and get you? Can you take a car, taxi, or bus?

- **Plan an escape route:** Know the safest routes out of the house. Avoid the kitchen or bathroom and rooms where firearms are kept.
- **Program emergency numbers into the phone:** Program your local transition house, a trusted friend or neighbour who can help you, and the police into your phone. If you've been abused before, make sure the police are fully aware of the situation.
- **Contact the local transition house:** Women have the option of calling a transition house and talking to staff. You may want to work out a code word so they know who you are if you have to call them in a crisis.
- **Consider pet safety:** If you are concerned for the safety of your pet, ask a neighbour or trusted friend if you can leave your pet with them. Or, contact the nearest transition house or domestic violence outreach office to

arrange to get your pet into a temporary safe haven program for pets.

- **Prepare an Emergency Leaving Bag:** Consider packing an emergency bag in case you need to leave quickly. You can't take everything. Just take what you'll need for a few days. Consider leaving the bag with a friend if you have to hide it. Hide some money away if possible (you may need emergency taxi fare) and a spare set of car keys in order to leave quickly.
- **Know your rights – get legal advice:** It is probably a good idea to get legal and other advice now, even before there is an emergency.
- **Make a list of things to take and where to find them:** In an emergency, you may have to leave quickly so make a list of the important things that you want to take and where they are located.



If you are in danger, get to a phone and call 911 immediately.

Here are some items that I may want to include in my Emergency Leaving Bag:

- Money, bank books, credit cards
- Clothes for a few days
- Any medicine you may need
- House keys, car keys
- Identification
- Medicare card
- Your address/phone book
- Important papers: birth certificates, marriage certificates, social insurance numbers, income tax returns
- Passport, First Nations status card, immigration/ citizenship papers
- Copies of your lease, deed or mortgage
- Legal documents such as POAs
- Car registration, driver's licence, car insurance
- Your favourite possessions/books (things that give you comfort)



My Emergency Safety Plan

1. It may not be safe to inform my partner that I am leaving.
2. What are the possible escape route(s) from my home? What doors, windows, elevators, stairwells, or fire escapes could I use: _____

3. If I need to leave quickly, it would be helpful for me to have some emergency cash, an extra set of house and car keys and extra clothes. I will pack a bag with the important things I need to take with me. I will leave this bag with _____, or _____.
4. I can keep my purse/wallet and keys handy, and always keep them in the same place (_____), so that I can locate them easily if I need to leave in a hurry. I can also have my own second set of keys made in case my (ex) partner/caregiver takes the first set.
5. It may be helpful to have a code word to use with my friends or other family members if I should need them to call for help. My code word is _____.
6. If it is safe for me, I could tell the following people about the violence and request that they call the police if they suspect that I am in danger. _____

My Emergency Safety Plan

7. Safe places that I can go if I need to leave my home:
 - a. A place to use the phone: _____
 - b. A place I could stay for a couple of hours: _____
 - c. A place that I could stay for a couple of days: _____
 - d. A local transition house: _____

8. During an abusive incident I will try to avoid places in the house where I may be trapped or where weapons are readily available. Bigger rooms with more than one exit may be safer. The places I would try to avoid would be _____

9. The places I would try to move to are _____.

10. Calling the Police can increase safety. Remember, many forms of elder abuse, woman abuse, spousal abuse, etc., are against the law. If your spouse or caregiver is assaulting you, the Police have the authority to lay a charge of assault.

11. I will also contact Social Development at _____ to seek services to help me leave the abuse. (See contact numbers in the **Services and Resources** section.)

My Emergency Safety Plan

12. Given my past experience, other protective actions that I might help me to stay safe are:

13. Things I can do to prepare for Emergency Leaving include:

- a. I will take the time to practice how to get out safely.
- b. I can open a savings account to increase my freedom to leave. I will make sure to alert the bank not to send any correspondence to my home address.
- c. I can get legal advice from a lawyer. I will make certain the lawyer knows not to send any correspondence to my home address.
- d. Abused women can contact a Transition House _____ or Domestic Violence Outreach office _____ (These numbers are listed in the **Services and Resources** section of this guide or in the front of the telephone book with other crisis numbers.). I can seek safe shelter and support by calling this number.



SECTION 6. Services and Resources

Reach out... help is available

SERVICES FOR SENIORS

Department of Healthy and Inclusive Communities offers a handbook called: *Seniors' Guide to Services and Programs*. You can view it or order the guide on-line at

www2.gnb.ca/content/gnb/en/departments/dhic/seniors/content/seniors_guide_toservicesandprograms.html.

You can also order a copy by emailing: seniors@gnb.ca

Some of the services you will find include:

- adult day centres
- attendant care
- meals on wheels
- nursing / special care homes
- homemaker / housekeeper services
- in-home services and supplies
- legal information or advice (some areas)
- extra-mural program
- counselling services
- support groups
- volunteer services
- advocacy groups
- transition houses and outreach offices

Department of Social Development offers support and services for seniors who are experiencing abuse and neglect.

To contact the **Adult Protection Program**, call the office nearest you toll-free:

Acadian Peninsula (Tracadie-Sheila)	1-866-441-4149
Chaleur (Bathurst)	1-866-441-4341
Edmundston	1-866-441-4249
Fredericton	1-866-444-8838
Miramichi	1-866-441-4246
Moncton	1-866-426-5191
Restigouche (Campbellton)	1-866-441-4245
Saint John	1-866-441-4340

Service New Brunswick (SNB)

You can get information about various provincial services by visiting www.snb.ca or calling toll-free at 1-888-762-8600.

HEALTH SERVICES

NB Department of Health

For information on a variety of health services including addiction services, mental health services and others, contact:

P.O. Box 5100 Fredericton, NB E3B 5G8

Telephone: (506) 453-2536

Fax: (506) 444-4697

www.gnb.ca/health

FINANCIAL SERVICES

Financial and Consumer Services Commission of New Brunswick (FCNB)

If you are an investor or consumer visit the FCNB website for a wealth of information including tips to help you protect yourself and make a complaint if you are the victim of unfair, improper or fraudulent practices.

Contact information:

85 Charlotte Street, Suite 300, Saint John, NB E2L 2J2

Fax: 506-658-3059

Email: info@fcnb

Visit their website at www.fcnb.ca or

Call 1-866 933-2222

In addition to the Financial and Consumer Services Commission, you may wish to report fraud or get information from:

PhoneBusters:

Toll Free: 1-888-495-8501

Fax: (705) 494-4755

Toll Free Fax: 1-888-654-9426

Email: info@phonebusters.com

The Competition Bureau

1-800-348-5358

www.cb-bc.gc.ca

Email: compbureau@cb-bc.gc.ca

INFORMATION ABOUT THE LAW

Public Legal Education and Information Service of New Brunswick (PLEIS-NB) provides general information about the law on a wide variety of topics of particular interest to seniors such as wills and estate planning, powers of attorney and health law. Also offer resources on the prevention of abuse and neglect of seniors. Can offer tips on finding a lawyer.

Contact:

P.O. Box 6000, Fredericton, NB E3B 5H1

Telephone: 506-453-5369

Email: pleisnb@web.ca

Toll-free family law line: 1-888-236-2444

www.legal-info-legale.nb.ca

or www.familylawnb.ca

FEDERAL GOVERNMENT RESOURCES

Information for Seniors – www.seniors.gc.ca

A website with information for seniors, including a section on Elder Abuse Awareness.

www.seniors.gc.ca/eng/sb/ie/index.shtml

Check out the booklet: *What every older Canadian should know about: Powers of Attorney (for financial and matters and property) and Joint Bank Accounts* www.seniors.gc.ca/eng/working/fptf/attorney.shtml

Service Canada for Seniors:

www.servicecanada.gc.ca/eng/audiences/seniors/index.shtml

Justice Canada: Elder Abuse is Wrong:

www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/eaw-mai/index.html

Justice Canada Policy Centre for Victims:

www.justice.gc.ca/eng/cj-jp/victims-victimes

NEWCOMERS TO CANADA

If you are a temporary resident in Canada (a visitor, worker or refugee claimant or the spouse of someone with temporary status) contact **Citizenship and Immigration Canada** at **1-888-242-2100/ 1-800-576-8502 TTY** to ask how your status in Canada may be affected by the status of your spouse or sponsor. You have the right to privacy when dealing with officials.

If you have temporary status in Canada or are without legal status, you should contact a lawyer who specializes in immigration matters or go to an immigrant-serving organization for advice and information about your choices.

Multicultural Council of New Brunswick

Telephone: 506-453-1091

Email: nbmc@nb-mc.ca

nb-mc.ca/index.php/english

ABORIGINAL SERVICES

The following organizations offer information on family violence to assist older Aboriginal Canadians. For information on resources and federal government programs and services see the Aboriginal Canada Portal.

- ◆ **The Healing Journey: Family violence prevention in Aboriginal Communities**
www.thehealingjourney.ca
- ◆ **Gignoo Transition House**
www.gignoohouse.ca/
- ◆ **National Aboriginal Circle Against Family Violence**
www.nacafv.ca

CRISIS LINES

These New Brunswick crisis lines may be able to help with crisis or emergency intervention and refer you to the appropriate services. These lines may be open beyond regular business hours.

- ◆ **Chimo Helpline 1-800-667-5005**, or
- ◆ **Fredericton Sexual Assault Crisis Centre**
24 hour crisis line: 506-454-0437

SERVICES FOR WOMEN EXPERIENCING FAMILY VIOLENCE

Transition Houses

Can provide temporary shelter, information and referrals for women who experience spousal or family violence.

Accueil Sainte-Famille (Campbellton)	395-1500
Crossroads for Women (Moncton)	853-0811
Escale Madavic (Edmundston)	739-6265
Fundy Region Transition House (St. Stephen)	466-4485
Gignoo Transition House (provincial)	458-1224; 1-800-565-6878
Hestia House (Saint John)	634-7570 (hot line); 634-7571 (office)
Maison Notre-Dame (Tracadie-Sheila)	753-4703
Miramichi Emergency Centre for Women	622-8865 (crisis); 622-8861 (office)
Passage House (Bathurst)	546-9540
Sanctuary House (Woodstock)	325-9452; 1-866-377-3577 (toll-free)
Serenity House – (Kent County)	743-1530
Sussex Vale Transition House	432-6999 (hot line); 433-1649 (office)
Women in Transition House (Fredericton)	459-2300

Family Violence Outreach Offices

Any victim of family violence can call to get support and referrals.

Restigouche County	790-1178
Woodstock	328-9680
Kent County	743-5449
Kennebecasis Valley	847-6277
Moncton	855-7222
Edmundston	263-0888
Sussex	433-2349
	After-hours: 432-6999
Shédiac	533-9100
Saint John	632-5616/648-2580
Acadian Peninsula	395-6233
Chaleur Region	545-8952
Miramichi	778-6496
Fredericton/Greater Area	458-9774
Charlotte County	469-5544

VICTIM SERVICES

Victim Services, Department of Public Safety can tell you about programs and services for victims of crime and refer you to counselling. See the booklet “*Services for Victims of Crime*”. For more information look in the provincial Blue Pages of your phone book under Victim Assistance Services or visit:

www2.gnb.ca/content/gnb/en/departments/public_safety/safety_protection/content/victim_services.html

RCMP and **Municipal Police Forces** may also offer services and support for victims of crime.

SENIORS' ORGANIZATIONS IN NEW BRUNSWICK

New Brunswick Senior Citizens' Federation

Devoted to the advancement of issues related to the wellbeing of all seniors aged 50 years and over in New Brunswick.

For more information call:

Toll Free: 1-800-453-4333

Moncton Area: (506) 857-8242

Fax: (506) 857-0315 or

Email: horizons@nbnet.nb.ca

Web: nbscf.ca

Go Ahead Seniors

Provides educational sessions for the 50 Plus population in New Brunswick so that seniors are empowered to take actions that will lead to a better quality of life.

For more information,

Telephone: 1-800-530-4844 (toll free) or
(506) 860-6548

Fax (506) 860-6551

Email: halvsa2@nb.aibn.com

www.ainesnbseniors.com

This list is not exhaustive. Check for other senior organizations that may represent your particular interests, such as associations for retired teachers, retired union employees, retired social workers, and so on.



Public Legal Education and Information
Service of New Brunswick
P.O. Box 6000, Fredericton
New Brunswick Canada E3B 5H1

Telephone: (506) 453-5369

Fax. (506) 462-5193

E-mail: pleisnb@web.ca

www.legal-info-legale.nb.ca