



# Financial Abuse of Older Adults

## Can the law help me?

### Introduction

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Any deliberate action or lack of action that causes harm to an older adult is elder abuse. The harm could be physical, emotional, financial or some combination and is often caused by a close friend or relative. It is not your fault. It is controlling behaviour.

This publication deals with Financial Abuse.

### Some Examples of Financial Abuse

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- stealing money, belongings, or pension cheques
- forcing you to change a will
- misusing your bank cards or credit cards
- forging a signature on personal cheques or legal documents
- withholding money that you need
- forcing or tricking you to sell a home or possessions, or to pay for unnecessary services



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- pressuring you to provide services for free, for example, babysitting or sharing your house
- refusing to return borrowed money or property as agreed upon, or when requested by you or your agent
- abusing power of attorney, guardianship, or trusteeship responsibilities

**Note:** These actions could be accompanied by other abusive behaviour (physical or psychological abuse) but they may not. The person could be perfectly pleasant and claiming to act in your best interest while taking advantage of you financially. It may take some time before you realize what is happening, and you may be the only one who sees it.

# Legal Options and Strategies for Dealing with Financial Abuse

Abuse does not stop on its own. If it is ignored, it will continue, and may even get worse. You can take actions on your own and with the help of others to end the abuse. The following are some possible options you can choose from:

## Take Steps to Secure your Finances and Plan for your Safety

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You can immediately take steps to keep your money safe. For example, you can talk to a bank manager, change PIN numbers, cancel credit cards or redirect your mail. You may want to consult with a trusted advisor or lawyer about your legal documents such as wills. If you are concerned about the reaction of the person who is abusing your finances or you have been threatened by this person, you also may need to plan for your safety. Some examples are: how to get out of the house safely, arranging somewhere to go or someone who you can call, or having emergency numbers handy.

You can learn more about these steps at:  
[www.oaknet.ca/plan](http://www.oaknet.ca/plan)

## Keep a Record

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Another helpful step is to write down what you remember about what has happened. Then continue to keep a record of incidents, noting what happened, who was there and the date and time. Your notes can be useful if you decide to tell others about what is going on. If you decide to take further action, a written record can help with providing evidence.

## Take Steps to Keep the Abuser Away

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You can apply for a court order which tells the person to stay away from you. There are different orders for different situations. If physical violence or property damage has been committed or threatened, you can apply under the *Protection Against Family Violence Act* for either an Emergency Protection Order for immediate protection or a Queen's Bench Protection Order for non-emergency situations. Even if there has been no violence or property damage, a Restraining Order, available through the civil court, can order a person to stay away from you and prohibit him or her from threatening to hurt you. A Peace Bond comes from a criminal court; it can require the person to have no contact with you, to stay away from certain locations and to obey any other conditions that the court puts in the order.

Learn more about these orders and how to apply for them at: [www.oaknet.ca/orders](http://www.oaknet.ca/orders)

## Arrange for a Different Person to Assist with your Affairs

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Under the *Power of Attorney Act*, you can give someone else the right to act on your behalf with respect to your financial affairs. There are several kinds of Powers of Attorney. An “immediate” Power of Attorney takes effect as soon as it is signed.

An Immediate Power of Attorney is not designed to address abuse, and it cannot directly be used to stop the abuse. However, it is a possible tool for dealing with abuse, as it appoints someone else to make financial decisions for you, and it therefore provides that person with some legal power. This, in turn, may take power away from the abuser. You must understand, however, that an Immediate Power of Attorney also takes away your ability to deal with your finances.

Learn more about Immediate Powers of Attorney at:  
[www.oaknet.ca/decide#EPA](http://www.oaknet.ca/decide#EPA)

## Make a Criminal Complaint

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You may prefer to try to work things out with the person who has been abusing your finances, but sometimes this approach doesn't work. It may become necessary to involve the criminal justice system. Many forms of financial abuse are criminal behaviour as described in Canada's *Criminal Code*. Here are some examples of criminal offences that may apply to different forms of financial abuse:

**Fraud:** Fraud occurs when a person knowingly misrepresents the truth or conceals information through statement or conduct in order to make another person rely on that information and act in a particular way in response. To “defraud” someone is to cause that person loss or injury as the result of such dishonesty or deceit. This can include stealing credit cards.

**Theft:** Theft occurs when a person knowingly takes or uses another person’s property, without that person’s consent, with the intent of permanently or temporarily depriving that person of the property. Theft of a bank credit and theft by a person holding a Power of Attorney can be included within the definition of theft. Even if the owner of the property knew that the property was taken, it can still be theft.

**Forgery:** Forgery occurs when a person knowingly creates a false document (or alters a document) with the intent that document be treated (and acted upon) as genuine, and this leads to a loss for someone else. “Altering” includes: adding to, erasing, or removing anything material in a document. Forgery can also occur when that false document is meant to induce someone to do (or not do) something.

You can read more about these and other offences (such as mail fraud, robbery, and extortion) at:

[www.oaknet.ca/crime-fin](http://www.oaknet.ca/crime-fin)

The first step to have criminal proceedings taken against someone is to make a report to the police. In order to charge someone with a criminal offence, the police have to be reasonably sure that a crime has been committed and that there is sufficient evidence of the crime. The police will investigate the matter.

***What will the police do?***

- The police should respond to and investigate all complaints of abuse.
- The police may interview family members, caregivers, and any others who may have evidence about the incident.
- The police officer must tell you what help is available in your community.
- The police may lay charges against the abuser.

***What might you have to do?***

- You may have to make a detailed statement and sign a written form of your statement.
- You may have to provide any available documents related to the financial abuse.
- If any physical abuse has also occurred, you may have to have photographs taken of your injuries or go to a hospital for a physical examination.
- You will have to identify the abuser.

If the person is charged with an offence, you will have to give evidence in court, unless the accused pleads guilty.

Learn more about the criminal process and going to court at: [www.oaknet.ca/complaint](http://www.oaknet.ca/complaint)

## Remember ...

You may feel the need to protect your children, spouse or other family members, even if they are treating you badly. But abusive behaviour is not healthy for you or for your abuser. It's okay to reach out for help.

## Resources

### **OakNet**

More information about abuse of older adults, including links to the websites below, can be found on OakNet.

[www.oaknet.ca/abuse](http://www.oaknet.ca/abuse)

### **Canadian Legal FAQs: Abuse of Older Adults**

Using a question and answer format, this website teaches how to recognize and respond to elder abuse.

[www.law-faqs.org/wiki/index.php/Abuse\\_of\\_Older\\_Adults](http://www.law-faqs.org/wiki/index.php/Abuse_of_Older_Adults)

### **LawNet Canada**

LawNet Canada is a collection of links to law-related information and organizations. Search results can be sorted by jurisdiction, so you can find organizations in your province that may be able to provide help.

[www.lawnetcanada.ca](http://www.lawnetcanada.ca) search keyword elder abuse

### **National Clearing House on Family Violence (NCFV)**

NCFV is a source for information on violence and abuse within the family. Their publications are available free of charge.

[www.phac-aspc.gc.ca/ncfv-cnivf/age-eng.php](http://www.phac-aspc.gc.ca/ncfv-cnivf/age-eng.php)