

PROTOCOL ON MANAGEMENT OF ELDER ABUSE



**Issued by the Department of Social Development
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Website: www.socdev.gov.za

APRIL 2010

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1. INTRODUCTION

The phenomenon of elder abuse is emerging as a growing social problem. The Ministerial inquiry on neglect, abuse and ill-treatment of older person initiated by the Minister of Social Development in 2000 revealed that the incidence of abuse amongst older persons is very high. Abuse has no boundaries; it occurs across all economic, ethnic, religious, gender and cultural groups.

Many of the signs and symptoms of elder abuse can be confused with changes brought by ageing; therefore elder abuse can easily be “misdiagnosed” or not identified at all. Persons who are engaged in detecting/identifying abuse need to have good skills, knowledge and abilities to do so.

This policy document acknowledges that all South Africans, regardless of age, have a responsibility to help promote and protect the rights of older persons, and to ensure that their actions do not infringe upon these rights.

The protocol is a joint, inter disciplinary, and inter sectoral management framework designed for use during interventions in instances of elder abuse or where elder abuse is suspected. It deals with the administrative procedures related to special provisions for the protection of older persons and the notification of suspicions of abuse or ill-treatment of older persons. The content of this protocol is derived from the Older Persons Act, 2006 (Act no 13 of 2006)

2. THE PURPOSE OF THE PROTOCOL

The protocol is designed to serve as a guide to assist government officials, local authorities, non governmental organizations and communities who are involved in delivering services to vulnerable older persons to take appropriate action, protect older persons from abuse and ensure that they receive effective service for reducing trauma.

3. DEFINITIONS OF CONCEPTS

Abuse – means any conduct or lack of appropriate action occurring within any relationship where there is an expectation of trust, which causes harm or distress or is likely to cause harm or distress to an older person, and includes-

(a) .Physical abuse which means any act or threat of physical violence towards an older person

(b). Sexual abuse which means any conduct that violates the sexual integrity of an older person

(c). Psychological abuse which means any patterns of degrading or humiliating conduct towards and older person, including-:

- i. repeated insults, ridicule or name calling;
- ii. repeated threats to cause emotional pain and
- iii. repeated invasion of an older person’s privacy, liberty, integrity or security

(d). Economic abuse which means -:

- i. the deprivation of economic and financial resources to which an older person is entitled under any law;
- ii. the unreasonable deprivation of economic and financial resources which an older person requires out of necessity or
- iii. the disposal of household effects or other property that belongs to the older person without the older person’s consent.

Inter disciplinary and intersectoral – refers to an approach that recognizes all participants and not only the multi-disciplinary team. This extends to formal and informal service providers.

Older Person – is any person who is 60 years old and above.

Older Person in need of care and protection – means an older person contemplated in section 25(5) of the Older Persons Act (Act No13 of 2006).

Frail older person – means an older person in need of 24-hour care due to a physical or mental condition which renders him or her incapable of caring for himself or herself.

4. OBJECTIVES OF THE PROTOCOL

To ensure that Older Persons are protected and receive effective services for reducing trauma and neglect.

- To provide clear roles, responsibilities and functions to relevant stakeholders.
- To develop and implement a systematic and uniform set of procedures, to enable effective management of the process that is people centered.
- To ensure that all services are performed in the most effective and efficient way through on going training and capacity building.
- To ensure that necessary collaboration and co-ordination between role players take place during the intervention process.
- To provide a system of mutual accountability and transparency.
- To empower older persons, individuals, families and communities to exercise their human rights and to live in a community where older persons are valued and protected.
- To ensure that effective programmes and prevention measures are in place to empower older persons against abuse and neglect.

5. PRINCIPLES

Practitioners should approach all incidents and reports of abuse of older persons as a priority to ensure maximum protection of older persons. The following principles should guide practitioners:

- Prevention of abuse and neglect of older persons is everybody's responsibility.
- All older persons deserve equal and best services available.
- An interdisciplinary teamwork approach is a prerequisite for the proper management of abuse cases.
- The provision of protection services to older persons should be aligned with existing service structures dealing with abuse.
- The service must be based on the needs for older persons and their families and support networks.
- Assessment of the older persons' circumstances and subsequent interventions should be comprehensive and systematic.
- Services must be provided in a culturally sensitive and appropriate manner.

6. LEGISLATION

- The Constitution of the Republic of South Africa (Act No.108 Of 1996)
- United Nations Resolution 46 of 1991
- Older Persons Act (Act No 13 of 2006)
- Aged Persons (Act No.81 of 1967)
- Aged Persons Amendment Act (Act No. 100 of 1998)
- Madrid International Plan of Action on Ageing
- Domestic Violence Act (Act No. 116 of 1998)
- Frail Care Guidelines For Older Persons

- Mental Health Act (Act No.18 of 1973)
- Health Act (Act No. 63 of 1977)
- Criminal Procedure Act (Act No. 51 of 1977)
- Criminal Procedure Second Amendment Act (Act No.85 of 1996)
- Social Assistance Act (Act No. 59 of 1992) (Proclamation No.8 of 19996)

7. TYPES OF ELDER ABUSE

The following types of abuse are commonly identified:

- Physical abuse which means any act or threat of physical violence towards an older person
- Sexual abuse which means any conduct that violates the sexual integrity of an older person
- Psychological abuse which means any patterns of degrading or humiliating conduct towards and older person, including-:
 - ✓ repeated insults, ridicule or name calling;
 - ✓ repeated threats to cause emotional pain and
 - ✓ repeated invasion of an older person's privacy, liberty, integrity or security
- Economic abuse which means -:
 - ✓ the deprivation of economic and financial resources to which an older person is entitled under any law;
 - ✓ the unreasonable deprivation of economic and financial resources which an older person requires out of necessity or
 - ✓ the disposal of household effects or other property that belongs to the older person without the older person's consent.

8. PROTECTION FOR OLDER PERSONS

8.1. Older person in need of care and protection

- In terms of section 25.(1) of the Older Persons Act (Act 13 of 2006),any person who is involved with an older person in a professional capacity and who on personal observation concludes that the older person is in need of care and protection must report such conclusion to the Director-General.
- In terms of section 25(2) of the Older Persons Act (Act 13 of 2006), any person other than a person in subsection (1) who is of the opinion that an older person is in need of care and protection may report such opinion to a social worker.
- In terms of section 25 (3) of the Older Persons Act (Act 13 of 2006), the Director-General or the social worker to whom a report has been made must investigate the matter.
- In terms of section 25 (4) of the Older Persons Act (Act 13 of 2006),if the report is substantiated by the investigation, the Director-General or the Social Worker concerned may take any one or more of the following actions, namely to:-
 - (a) facilitate the removal of the older person concerned to a hospital, in case of injury, or to a shelter;
 - (b) make a report to a Police Official requesting the latter to act in terms of section 27;
 - (c) take such other steps as may be prescribed to ensure adequate provision for the basic needs and protection of the older person concerned; or
 - (d) if the older person concerned is the victim of an offence or crime, assist the older person to see a Police Official in order to lay a complaint.
- In terms of Section 25 (5), an older person who is in need of care of protection is one who:-

- (a) has his or her income, assets or old age grant taken against his or her wishes or who suffers any other economic abuse;
- (b) has been removed from his or her property against his or her wishes or who has been unlawfully evicted from any property occupied by him or her;
- (c) has been neglected or abandoned without any visible means of support;
- (d) lives or works on the streets or begs for a living;
- (e) abuses or is addicted to a substance and without any support or treatment for such substance abuse or addiction;
- (f) lives in circumstances likely to cause or to be conducive to seduction, abduction or sexual exploitation;
- (g) lives in or is exposed to circumstances which may harm that older person physically or mentally; or
- (h) is in a state of physical, mental or social neglect.

8.2. Notification of abuse of older persons

- In terms of section 26(1) any person who suspects that an older person has been abused or suffers from an abuse-related injury must immediately notify the Director-General or a police official of his or her suspicion.
- In terms of section 26(2), a person is not liable in respect of any notification given in good faith in terms of subsection (1).
- In terms of section 26(3) a persons who fails to comply with subsection (1) is guilty of an offence
- Notification must be done utilizing **Guideline 14** within 48 hours. If the form is not available, a report should still be sent to the relevant District/ Decentralized office of the Department of Social Development or Welfare

Organisation. Please mark the document **URGENT AND CONFIDENTIAL**.

- The said forms/ or other reports must be completed with as much information as possible.

8.3. Written notice to alleged offender

If the report made in terms of section 25 (4)(b) of the Older Persons Act (Act No.13 of 2006) confirms that an older persons has been abused, the Police Official must take all the actions contemplated in section 27 of the Older Persons Act (Act No.13 of 2006).

8.4. Procedure for bringing alleged abuser of older person before magistrate

All procedures as contemplated in section 28 of the Older Persons Act (Act No 13 of 2006) must be followed.

8.5. Enquiry into abuse of older person

All procedures as contemplated in section 29 of the Older Persons Act (Act No.13 of 2006) must be followed.

8.6. Prohibition of abuse of older persons and special measures to combat abuse of older persons

- In terms of section 30 (1) of the Older Persons Act (Act No.13 of 2006) any person who abuses an older persons is guilty of an offence. The

Department of Social Development and all key stakeholders must ensure that the community is capacitated on abuse of older persons to protect older persons from such encounters.

- Section 30(2) and (4) of the Older Persons Act (Act No.13 of 2006) outlines the definition of abuse, and the types of abuse that older persons can be subjected to on a daily basis.
- In terms of section 30(4) of the Older Persons Act (Act No.13 Of 2006), if a court after having convicted a person of any crime or offence, finds that the convicted person has abused an older person in the commission of such crime or offence, such finding must be regarded as an aggravating circumstance for sentencing purposes.

8.7. Keeping of the register for abuse of older persons

- In terms of section 31(1)of the Older Persons Act (Act 13 of 2006), the Minister must in the prescribed manner keep a register of persons convicted of the abuse of an older person or of any crime or offence contemplated in section 30(4).
- In terms of section 31(2)of the Older Persons Act (Act 13 of 2006),a person whose name appears in the register contemplated in subsection (1) may not in any way:-
 - (a) operate or be employed at any residential facility;
 - (b) provide any community-based care and support service to an older person.

The Provincial and National Department of Social Development, residential facilities and all facilities working with older persons must keep a register of abused cases of older persons, incident register and complaints register.

8.7.1. Residential facilities

- The registers must be submitted to the management committee at every meeting
- A resident may be restrained with the consent of a registered medical practitioner to ensure the safety of the resident, other residents and staff
- When a resident is restrained, the management must within 24 hours or as soon as possible inform the relatives of that resident, about it.
- All complaints must be recorded in a **complaint register – Guideline 15** and dealt with immediately by the manager.
- All complaints as well as the outcomes thereof must be discussed and noted in the minutes at each management committee meeting and must be treated as confidential.
- An **incidents register** must be kept at residential facilities utilizing **Guideline 16**. This register must be used to record all incidents/accidents regarding the residents, e.g. injuries as a result of fall, bruises, pressure sores that do not heal or a person coming back from a visit/hospital with new or untreated pressure sores. The incident, the staff noticing and reporting it as well as the action taken to prevent further incidents and the outcome of the action taken must be recorded.

8.7.2 .Decentralised Department of Social Department Register

These offices receive the **notification form – Guideline 14** from complainants and record these in their own register. Copies of the notification form – Guideline 14 must be forwarded to the provincial office after **4 weeks of initial report (step 1) in the schematic chart on procedure /protocol on management of older persons' abuse**. The register will have information on reported cases for older persons living in communities and those in facilities. Decentralised offices will forward the information to the Provincial office.

8.7.3 Provincial Register

The provincial department will keep an abuse register containing information on all reported cases and notifications of abuse from decentralized offices of the department, facilities for older persons or any other source. Provincial offices will forward the information and a report to the Director General of the national Department of Social Development within two weeks of receiving the notifications from the Decentralised office to feed into National register.

9. PROCEDURES REGARDING NOTIFICATION AND HANDLING OF CASES OF ABUSE OF OLDER PERSONS

9.1 Identification

Identification refers to the process whereby a member of the public, Professional or a layperson, in his/her official capacity or otherwise, recognizes neglect, exploitation, ill treatment or abuse or has good reason to suspect that it is occurring or has occurred.

9.1.1 Who should do it?

- Professionals (medical practitioners, nurses, social workers, lawyers, police officers), staff in residential facilities for older, services centers for older persons or organizations caring for older persons, any member of the public, or older persons themselves.

9.1.2 What should be done?

- Identify reasonable grounds for belief that abuse is occurring.
- Establish the wishes of the older person.
- Assess or refer the older person, or carer to appropriate resources or professionals for assessment, (e.g. collection of forensic evidence).

- Multi- disciplinary interventions may be necessary e.g. medical, psychiatric, police, legal.
- Where necessary, the older person can be assessed for mental competency to be able to design appropriate intervention measures.

9.2 Assessment

9.2.1 Who should do it?

- Police, hospital casualty departments, ambulances services, primary health clinics, social workers, police, nurses, human rights officials, organizations rendering services to older persons, welfare organizations and residential facilities for older persons.

9.2.2 What should be done?

- Determine the extent, frequency and history of abuse.
- Determine the needs, wishes and capacities of the older person and carer(s)
- Determine the risk factors of abuse
- Recommend appropriate interventions to the victim and abuser.
- Report alleged abuse to appropriate state department for data collection, monitoring and evaluation.

10. CASE MANAGEMENT PROCESS

The effective coordination, cooperation and communication between all the role players concerned with reporting, treatment and evaluation of older persons is of critical importance. The following key role players are critical towards the success of the management process:

- **Department of Social Development**
- **Department of Health**
- **Department of Justice**
- **South African Police Services**
- **Non Governmental Organizations**
- **Community Based Organizations**
- **Faith Based Organisations**
- **Other relevant stakeholders**

10.1. Reporting

- In terms of section 26(1) any person who suspects that an older person has been abused or suffers from an abuse-related injury must immediately notify the Director-General or a police official of his or her suspicion.
- Notification must be done utilizing **Guideline 14** within 48 hours. If the form is not available, a report should still be sent to the relevant District/ Decentralized office of the Department of Social Development or Welfare Organisation. Please mark the document **URGENT AND CONFIDENTIAL**.

10.2 Screening/ assessment

The person receiving the allegation will make a decision on the intervention process. The intervention will be guided by the following:

Is the situation life threatening?

Or

Is the situation not life threatening?

- If the situation is life threatening, the case should be reported to the South African Police (SAPS) who will work with existing victim empowerment centers to provide the appropriate intervention. The case will still have to be reported to the local Department of Social Development Office.
- If the situation is not life threatening, the case should be reported to the social worker who will in terms of section 25 (3) and (4) of the Older Persons Act (Act No 13 of 2006) provide the required intervention based on the older persons circumstances. and the statistics is to be forwarded to the Provincial Department of Social Development where a central register will be kept.

10.3 Referral

Upon receipt of the notification the social worker from the department must immediately:

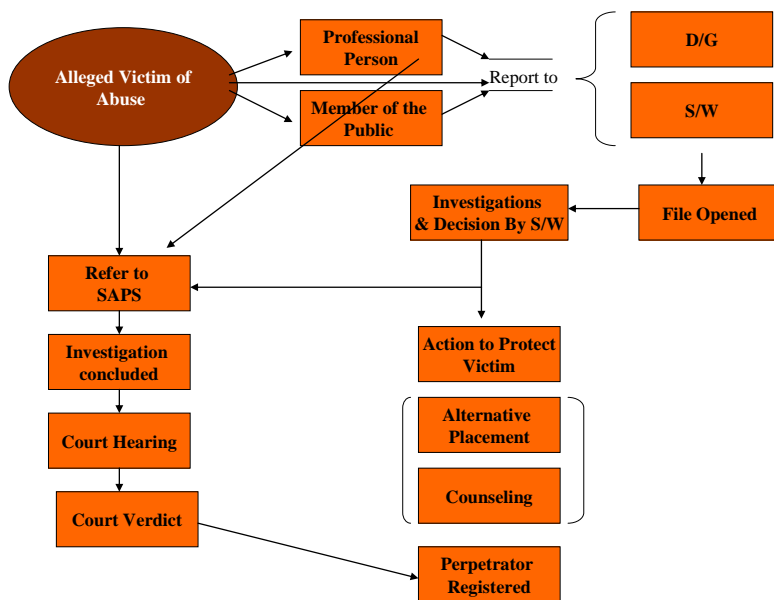
- Request a police officer, social worker or any other authorized person to conduct an urgent preliminary investigation into circumstances giving rise to the suspicions described in the notification or take an appropriate action to protect the older person within two working days.
- The Director-General or any other officer delegated by him/her to do so, may, in terms of section 25 (4) (a) of the Older Persons Act, if needed, facilitate the removal of the Older Person concerned to a hospital in case of injury or such other place, determined by Director General, to ensure the safety, welfare and treatment of the said older person.
- Once action is taken in terms of provisions of the said section, it must be ensured that the case is allocated to a social worker, if not already dealt with by a social worker.

- The designated social worker will conduct an investigation and provide a written report to the supervisor at the Decentralised office. The Decentralised office must forward a copy of the report to the Provincial Office of the Department of Social Development within 4 weeks after referral. The report must include all steps taken to ensure the safety and welfare of the older person
- It is essential to note that the victims and perpetrators require follow-up services. The social worker must therefore provide in the report the support services needed and a person who will be responsible to render those services.
- If the Older Person is a registered client of specific welfare organization, the case must be transferred to that organization together with all available documents within 48 hours.
- If the abuse involves a Residential facility, a facility, or NGO or CBO the matter must be dealt with by a social worker at the decentralised office of the Department of Social Development. If the complaint involves the Department of Social Development, the provincial office will conduct the investigation. The provincial office must be notified of the complaint within 48 hours and furnished with a report on the findings after investigation in 4 weeks.
- If the person who is abused does not want to be removed he/she should sign an affidavit indicating that he has been given an explanation of the consequences of non removal.
- The wish of the older person must be put at the center of every intervention.
- The case may be brought on behalf of the older person with a written consent of the older person; except in circumstances where the older

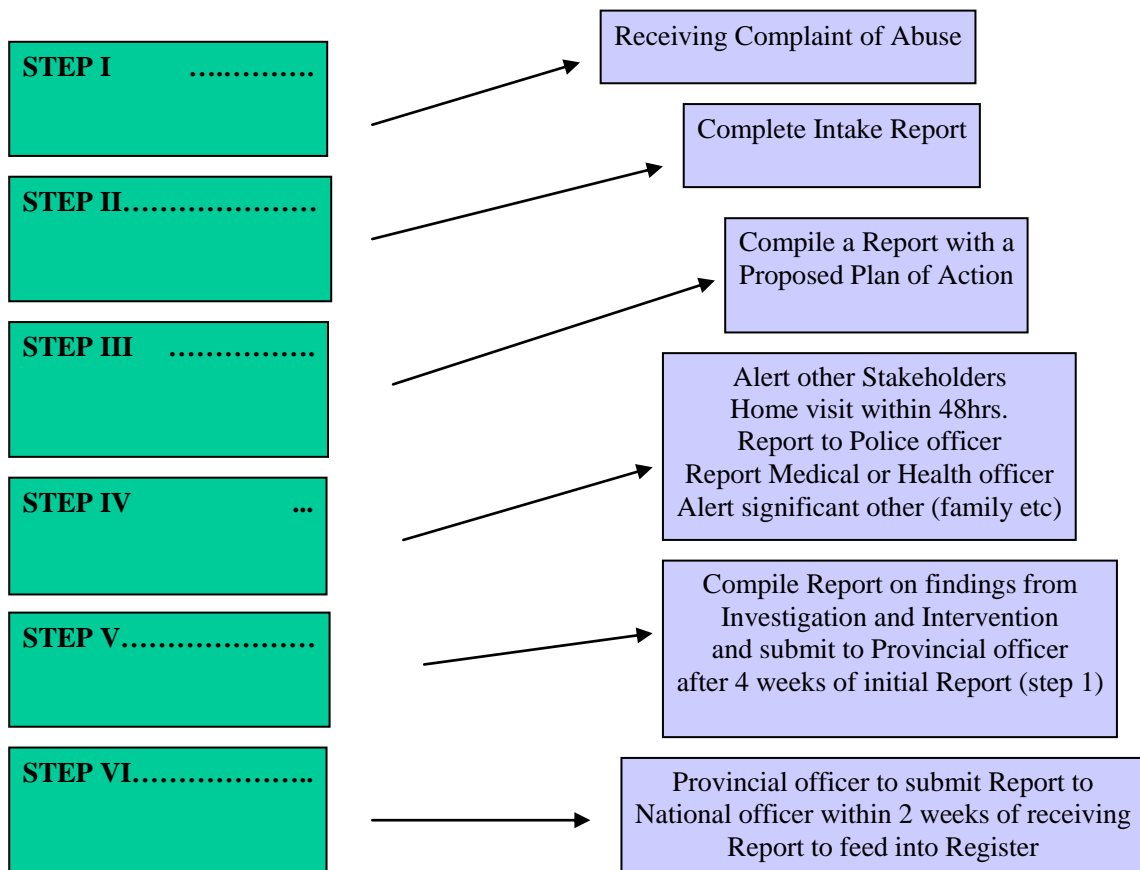
person is mentally ill, unconscious or there is proof that he or she is unable to provide the required consent.

- The magistrate may order the social worker to conduct an investigation and submit a report.
- The report submitted to the magistrate holding the inquiry will assist the magistrate to determine whether there is for medical and clinical psychological report and order the relevant professionals to submit such reports.
- The magistrate holding the inquiry may determine, on the recommendation of the social worker or with due consideration to the safety of the older person, whether or not the proceedings should be conducted in an open courtroom or behind close doors.

10.4. Schematic illustration on case management of abuse cases



10.5 Chart on procedure / protocol on management of elder abuse



11. INTERVENTIONS

11.1 Models of intervention

Despite difficulties in the prevention and management of elder abuse, there are a few models suggested for intervention. The practitioner will decide on the best option for each case:-

- **The Domestic Violence Model**

In this model it is important to note that the abuse of an older person may be related to spousal abuse that might have been occurring over a long period. In terms of older couples, age is certainly no barrier to domestic violence; the possibility of violence may increase given some of the pressures experienced in later life. The type of intervention will include: crisis intervention services, emergency refuge, support groups, counseling facilities and legal services. The same type of intervention will apply when the abuse is inflicted by any other member of a household.

- **The Social work Intervention model**

What is important in this model is case management as a strategy for handling some of the complex problems associated with elder abuse and

neglect. In this type of intervention, there should be coordination of a range of support services into flexible packages of care to meet the needs of the older person and the carer.

A helpful framework for developing responses to older persons is the stair case model developed by Breckman and Adel man (1988).The focus here is on overcoming the resistance which people may have to seek help.

Intervention is divided into three categories.

a) ***Reluctance***

In this stage the victim is in denial that abuse or maltreatment has taken place.

b) ***Recognition***

This is the point where the victim recognizes that the problem is serious and he/ she cannot manage it alone.

c) ***Rebuilding***

The victim in this stage has realized that he/she does not have to tolerate the abuse or maltreatment and can begin to shape his/her own life.

Counseling is a significant element in all these stages. Counseling should be with both the carer as well as the older person.

Developing an approach to elder abuse from within conventional social and health care practice has two key advantages. Firstly, it allows workers to draw upon established skills when responding to elder abuse.

Secondly, it places interventions as part of the core activities of primary health and social care. The social worker will need to coordinate services with other professionals e.g. Lawyers, Doctors, Nurses, Police officers and work with other departments e.g. Justice, SAPS, Safety and Security, Health, NGO'S etc.

- **The Advocacy Model**

This model highlights the importance of protecting the rights of older persons.

This model provides for the following:

- 1) The development of a charter of the rights for older persons (In and out of residential facilities)
- 2) Legal provisions such as guardianship
- 3) Legislation which gives greater say to older persons
- 4) Awareness raising programmes on issues affecting older persons.
- 5) Formation of forums for older persons.
- 6) Representation of older persons in all community forums.
- 7) Consultation with older persons on all issues affecting them.
- 8) Treatment of older persons with dignity and respect.

- **The People – Centred Approach**

This approach emphasizes the importance of recognizing older persons as being capable of solving their own problems or making their own decisions. To understand the People-Centred Approach (PCA), it is essential to understand the following two core concepts:

(a). Self-actualization

Self-actualization can be defined as the inherent tendency of every person or family system to develop their capacities in ways that maintain or enhance the person or system. This motive is assumed to exist within every living creature (Zastrow, 2003: 37; Carver & Scheier, 2004:383). Rogers, the father of the People-Centred Approach (PCA), believed that counsellors should not make interpretations, as the actualizing motive will best guide a client. He further believed that this motive will lead the client to become a sociable, cooperative, creative and self-directed person. In crisis intervention this implicates that the counsellor will rather facilitate a process to accommodate the potential of the individual or family members by exploring and incorporating their views and ideas to find some immediate solutions for a specific crisis. The counsellor therefore does not have to act as the all knowing authority that needs to find all the answers for the older persons's problems.

If the right of self-actualization of the older person is been respected by the counsellor, it will move the older person towards greater autonomy and self-sufficiency. This again will lead to more sustainable growth as the older person will feel part of the solutions and will experience more self worth and self respect.

Self-actualization also refers to the fact that all people need to experience unconditional positive regard, which means that the counsellor has to fully accept the older person and convey a genuine caring for the client. It also implies to value another, irrespective of the different values that we might place on his or her specific behaviors. The counsellor therefore believes in the inner wisdom of the self-actualizing motive-that the client is best able to decide what courses of action are most advantageous. Showing unconditional positive regard, means to communicate respect, warmth,

acceptance, liking, caring and concern for a client, all of which are not conditional on what the client says or does. Also, counsellors preferably do not express approval or disapproval and have to fully trust the client's resources for increased self-understanding and positive change.

(b). Self-Determination

As important as self-actualization is, it is also important to understand the value of self-determination as another core concept of the PCA. Self-determination can be defined as “the practical recognition of the right and need of clients to freedom in making their own choices and decisions.” (Hepworth, Rooney & Larson, 2002: 67). This definition refers to the capacity of human beings to make their own choices and decisions, however foolish these may seem to others. It emphasizes the freedom to think, to choose and to make mistakes, as well as to act wisely. When this is translated into a social work principle, it would mean the recognition of a client system's right to make its own choices, which is not equivalent to granting permission to do what ever it likes (Potgieter, 1998: 44). This refer to the reality that social workers may limit clients' right to self-determination when, in their professional judgment, clients' actions or potential actions pose a serious, foreseeable, and imminent risk to themselves or others. Social workers should always be sensitive, however, about not taking over client responsibilities where this is not warranted. According to Potgieter (1998:45), client systems “need travel guides, not directive travel agents”. The helping process should aim to increase independence and foster self-respect so that client systems are empowered to lead full and satisfying lives. Allowing room for client system self-determination means recognition of the fact that the client system is always the chief problem-solver and that the relationship between helper and client should always be one between equals. However, self-determination does not prohibit the helper from offering an opinion or from making suggestions where necessary. The helper has the

obligation to share his or her own thinking with client systems and to be available as an important source of information that could assist the client system in making sound decisions.

12. CONCLUSION

Elder abuse is a multiple responsibility that needs to be addressed by all i.e. traditional leaders, community organizations, families, government departments, the private sector and older persons themselves. Although each sector has a specific interest, the common goal, which is prevention of abuse and neglect of older persons, should be the guiding principle.

It is imperative that all managers of social work services and facilities for Older Persons should ensure that all practitioners are well conversant and comply with the prescribed procedure spelled out in the legislation and this protocol.