

Reforming Estate, Probate, and Adult Capacity Law in British Columbia

A Discussion Paper

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This paper represents the author's views and is not an official government document.

Executive Summary

Public summary

(Plain-language version for website visitors)

Estate administration, probate, and decisions about who can act for an aging or incapable adult affect thousands of families in **British Columbia** every year. These processes determine who can pay bills, manage property, make care decisions, and carry out a person's wishes after death. For many families, they arise suddenly and at moments of stress, illness, or loss.

Today, most of these decisions rely on court processes that were designed for legal disputes, not for high-volume, largely routine matters. Even when there is no conflict, families often face delays, procedural complexity, and significant costs before legal authority is granted. These delays can freeze assets, complicate caregiving, delay hospital discharge, or force interim care arrangements that families never intended.

This discussion paper asks a simple question: **is the current system working as well as it should?**

Rather than focusing on legal doctrine, the paper looks at system performance—how quickly decisions are made, how accessible the process is for ordinary families, and how efficiently public resources are used.

The paper identifies several recurring problems. First, routine probate and adult capacity matters are processed through the same court system as complex litigation, even when no dispute exists. Second, responsibility is fragmented among courts, the **Public Guardian and Trustee**, health authorities, legal professionals, and families themselves, with no single body responsible for timely, end-to-end decision-making. Third, delays in legal authority often spill into other systems, particularly health care, contributing to longer hospital stays or earlier placement in long-term care.

To understand whether alternatives are possible, the paper looks at how British Columbia and other jurisdictions have addressed similar challenges in other areas. In workers' compensation, automobile insurance, residential tenancy, employment standards, small civil claims, and mental health review, governments have moved routine, high-volume decisions out of the courts and into specialized administrative bodies, while keeping courts available for appeals and complex disputes. These examples are examined not as templates, but as evidence that different institutional designs are possible.

The paper also explores financial questions, including the cost of court time, the possibility of fee-funded administrative models, and how progressive or deferred fees might work so that families are not blocked by up-front costs. It considers how such changes could affect legal services, taxpayers, and public institutions, without assuming a single outcome.

Importantly, this paper does **not** propose eliminating courts, restricting access to lawyers, or weakening protections for vulnerable adults. It does not advocate a specific reform. Its purpose is to support informed discussion about whether estate and adult capacity law in British Columbia should be modernized to better reflect current realities.

If you have personal experience with probate, estate administration, or caring for an aging family member, your perspective may be valuable to decision-makers. Constructive public input helps shape better policy.

Policy-maker summary

(Formal version for policymakers and institutional readers)

Estate administration, probate, and adult capacity determination in **British Columbia** are increasingly affected by demographic change, rising interaction with the health-care system, and growing demand for timely legal authority. These functions remain heavily dependent on superior court processes that were designed primarily for adversarial dispute resolution rather than for high-volume, largely routine determinations.

This discussion paper examines whether the current system continues to meet public policy objectives of timeliness, proportionality, accessibility, and efficient use of public resources. The focus is on system performance rather than doctrinal reform. In particular, the paper considers how reliance on court-based processes for uncontested probate and non-adversarial adult capacity matters affects families, vulnerable adults, courts, and downstream public costs.

The paper begins by defining the problem in performance terms. It identifies delays, procedural complexity, and fragmented institutional responsibility as structural features rather than temporary pressures. While courts provide authoritative adjudication, they are not optimized for routine administrative determinations, resulting in high transaction costs relative to risk and value in many cases.

The current institutional landscape is then mapped, including the roles of the courts, the **Public Guardian and Trustee**, health authorities, private legal professionals, and families who often act informally in the absence of timely legal authority. No single institution currently has end-to-end responsibility for determining authority, supervising fiduciaries, and coordinating with health and social systems.

The paper situates estate and adult capacity law within a broader pattern of reform. In areas such as workers' compensation, automobile insurance, residential tenancy, employment standards, small civil claims, and mental health review, legislatures have repeatedly relocated routine, high-volume adjudication from generalist courts to specialized administrative bodies, while preserving judicial oversight through appeals and judicial review. These experiences are analyzed for structural insight rather than direct replication.

Economic and fiscal implications are examined, including court time and taxpayer costs, fee-funded administrative models, progressive and deferred fee structures, and potential impacts on the legal services market. Particular attention is given to the interaction between legal delay and health-system utilization, where lack of timely authority may contribute to prolonged hospitalization or premature institutional care.

The paper also addresses legal and constitutional considerations, stakeholder impacts, and a range of policy options—from incremental improvements to partial or unified administrative models—without endorsing a single outcome. It concludes by identifying data gaps, research needs, and implementation considerations relevant to any future reform process.

This paper is intended to inform discussion and support evidence-based policy development. It does not propose the elimination of courts, legal counsel, or vulnerable adult protections, nor does it advance a specific legislative model.

Contents

Executive Summary 2

 Public summary 2

 Policy-maker summary 4

About This Paper 7

1. Introduction 8

2. Purpose and Scope of This Paper 9

3. Problem Definition: System Performance Gaps 10

4. Current Institutional Landscape 11

5. Comparative Models and Patterns of Reform 12

6. Economic and Fiscal Implications 15

7. Health-System Interactions and Public Costs 18

8. Preventive Functions: Wills, Powers of Attorney, and Representation Agreements 21

9. Legal and Constitutional Considerations 25

10. Stakeholder Impacts 28

11. Policy Options 31

12. Implementation Considerations 35

13. Research Gaps and Next Steps 38

14. Conclusion 40

Appendix A: Glossary 41

Appendix B: Relevant Statutory Framework (Overview) 42

About This Paper

This paper examines whether British Columbia's current approach to estate administration, probate, and adult capacity determination continues to meet public policy objectives of timeliness, proportionality, accessibility, and efficient use of public resources.

It is intended as a discussion paper, not a proposal. Its purpose is to frame issues, identify structural options, and support informed dialogue among policymakers, practitioners, institutions, and the public. It does not attempt to resolve detailed questions of legislative drafting, clinical capacity assessment, information technology architecture, data security implementation, or professional regulation. Those matters require specialized expertise and consultation beyond the scope of this paper.

Motivation for this paper is informed in part by personal experience navigating British Columbia's estate and adult capacity systems. In the author's case, delays and uncertainty in establishing legal authority contributed to outcomes that shifted avoidable costs from private family care to publicly funded institutional care. It also resulted in negative care outcomes for two vulnerable seniors suffering from dementia. While individual circumstances vary, this experience highlighted a broader policy concern: when legal systems impede timely decision-making, the resulting costs are often borne not only by families, but by taxpayers.

The author used generative artificial intelligence tools, including ChatGPT, as a drafting and editing aid in the preparation of this paper. The structure, framing, and conclusions reflect the author's own views and experience. Responsibility for the content and any errors rests solely with the author.

This paper is intended to initiate discussion. Input from individuals with lived experience, as well as from legal, health, administrative, academic, Indigenous, and community organizations, is essential to assessing options, identifying risks, and refining safeguards.

1. Introduction

Estate administration, probate, and adult capacity law affect people at some of the most vulnerable moments of their lives: serious illness, loss of capacity, and death. In British Columbia, these systems are relied upon thousands of times each year to establish legal authority, protect vulnerable adults, and transfer property.

Yet many families experience these processes as slow, confusing, and disproportionate to the issues involved. The problems are not limited to individual cases. They reflect broader structural mismatches between how the system is designed and how it is used.

This discussion paper examines those mismatches from a system-performance perspective. It does not advocate a single reform model. Instead, it maps problems, reviews comparative experience, identifies trade-offs, and outlines a range of policy options to support informed discussion among policymakers, practitioners, institutions, and the public.

2. Purpose and Scope of This Paper

This paper is intended to support discussion of reform options for estate administration, probate, and adult capacity determination in British Columbia. It focuses on system performance and institutional design, including how delays and procedural complexity affect families, courts, the health system, and taxpayers.

The paper does not provide legal advice, evaluate individual disputes, or propose legislative drafting. Its objectives are to:

- describe recurring performance gaps and their consequences;
- identify why current arrangements tend to produce delay and high transaction costs in routine matters;
- review comparable reforms in other high-volume legal domains;
- outline preventive functions that could reduce downstream crises;
- present a range of policy options and the trade-offs among them; and
- identify research gaps and next steps for expert-led evaluation.

Throughout, the paper emphasizes safeguards, voluntariness of preventive functions, and preservation of judicial oversight.

3. Problem Definition: System Performance Gaps

Many probate and adult capacity matters are procedurally routine: documentary, non-adversarial, and uncontested. Despite this, they are often processed through court procedures designed for adversarial litigation. This mismatch can generate delay, cost, and uncertainty that are disproportionate to the issues involved.

Common system-performance gaps include:

- delay in establishing legal authority to act on behalf of an adult or estate;
- complexity that effectively requires professional intermediaries even for straightforward cases;
- fragmentation across institutions with no single body responsible for end-to-end outcomes; and
- limited visibility of downstream public costs when legal delay affects health-care transitions.

These gaps can lead to practical harm—frozen accounts, inability to arrange services, stalled discharge planning—and can shift avoidable costs to publicly funded systems.

4. Current Institutional Landscape

Estate administration and adult capacity matters in British Columbia sit at the intersection of multiple institutions and professional roles.

Courts remain central to probate and committee determinations, even when matters are routine and uncontested. The Public Guardian and Trustee plays a critical protective role and may act as fiduciary of last resort in defined circumstances. Health authorities and care providers operate within legal constraints regarding consent and authority, and often require clear documentation before acting. Private legal and notarial services provide advice, document preparation, and representation, and frequently function as navigators through procedural requirements.

This landscape can work well in contested or complex matters where adjudication and advocacy are necessary. However, where the majority of determinations are documentary and non-adversarial, the lack of a specialized, high-volume administrative pathway can amplify delay and transaction costs.

5. Comparative Models and Patterns of Reform

5.1 Workers' Compensation Reform: Structural Lessons

Workers' compensation reform is one of the earliest and most durable examples of reallocating a high-volume category of disputes from courts to a specialized administrative system. In British Columbia, workplace injury claims are adjudicated primarily through **WorkSafeBC**, rather than through tort litigation in the courts.

The reform addressed several persistent problems: litigation delay, unpredictability of outcomes, high transaction costs, and uneven access to justice. By replacing fault-based court proceedings with administrative adjudication and defined benefits, governments reduced reliance on courts while preserving limited avenues for appeal and judicial review.

The relevance of workers' compensation reform to estate and adult capacity law is structural rather than substantive. The key lesson is not the content of compensation rules, but the institutional choice to remove routine, repetitive determinations from generalist courts and assign them to a specialized body with dedicated expertise, streamlined procedures, and predictable timelines.

Over time, workers' compensation systems have demonstrated that such reallocations can be stable, widely accepted, and adaptable, even in the face of initial professional and institutional resistance. Legal work did not disappear; it shifted toward appeals, complex entitlement disputes, and advisory roles.

5.2 Automobile Insurance Reform: ICBC and No-Fault Models

Automobile insurance reform provides a more contemporary and politically salient comparator. In British Columbia, responsibility for most motor vehicle injury claims has shifted from tort-based litigation to administrative determination through **Insurance Corporation of British Columbia**.

Prior to reform, auto injury claims generated extensive court involvement, expert evidence, and prolonged litigation. Rising costs were driven as much by legal transaction costs as by compensation itself. Reforms reduced court access for routine claims, substituted administrative decision-making, and preserved judicial oversight for defined categories of disputes.

Comparable no-fault or hybrid systems in other jurisdictions reflect the same structural logic: where claim volumes are high and disputes are repetitive, courts are often an inefficient primary forum. Administrative adjudication offers speed, consistency, and cost control, albeit with trade-offs that must be managed through safeguards and review mechanisms.

For estate and adult capacity law, the relevance lies in the recognition that courts are not a costless or neutral default. Legislatures have repeatedly concluded that reallocating routine determinations to specialized systems can improve overall system performance, even where individual rights and significant interests are at stake.

5.3 Administrative Justice Comparables in British Columbia

British Columbia has, across multiple domains, embraced administrative justice as a primary mechanism for resolving high-volume disputes and determinations.

The **Civil Resolution Tribunal (CRT)** was created explicitly to reduce reliance on courts for small civil claims and strata disputes. It emphasizes proportionality, accessibility, and early resolution, with courts reserved for appeals and judicial review.

Similarly, residential tenancy disputes are primarily resolved through the **Residential Tenancy Branch**, rather than through the courts. These disputes often involve significant financial and personal consequences, yet are handled administratively to ensure timely and affordable resolution.

Human rights complaints are adjudicated by the **BC Human Rights Tribunal**, even though they engage quasi-constitutional rights. Mental health detention and treatment decisions are reviewed by the **Mental Health Review Board**, reflecting the need for speed, expertise, and regular review in time-sensitive contexts.

Taken together, these examples demonstrate that administrative adjudication is not limited to minor or technical matters. It is routinely used in areas involving housing, employment, human rights, mental health, and property interests, with courts retained as a supervisory backstop.

5.4 Common Structural Features Across Reforms

Across these diverse domains, several consistent design features emerge:

1. **Specialization** – Decision-makers develop subject-matter expertise unavailable in generalist courts.
2. **Proportionality** – Procedures are calibrated to the complexity and risk of the matter.
3. **Accessibility** – Processes are designed for non-lawyers, reducing reliance on procedural intermediaries.
4. **Judicial Oversight** – Courts retain authority through appeals or judicial review, preserving rule-of-law safeguards.
5. **Public Cost Control** – Administrative systems reduce reliance on publicly funded court infrastructure.

These features are not unique to any single reform. They reflect a broader governance pattern in which courts are repositioned as forums of last resort rather than default processors of routine matters.

5.5 What These Models Suggest for Estate and Adult Capacity Law

Estate administration and adult capacity determination share several characteristics with the domains discussed above: high volume, predictable fact patterns in many cases, time sensitivity, and significant interaction with other public systems. Yet they remain unusually court-centric.

The comparative experience suggests that reallocating routine, non-adversarial matters to a specialized administrative body is neither novel nor inherently risky. Rather, estate and capacity law increasingly appear as outliers within a provincial justice system that has otherwise embraced administrative adjudication for comparable challenges.

At the same time, these models caution against overreach. Administrative systems function best when scope is clearly defined, safeguards are explicit, and escalation pathways to the courts are preserved.

5.6 What Should *Not* Be Copied

Comparative experience also highlights design choices that merit caution. Reforms that eliminate access to legal advice entirely, underfund administrative bodies, or impose rigid thresholds without flexibility have struggled to maintain public confidence.

For estate and adult capacity law, the lesson is not to replace courts wholesale or to mandate participation in new systems, but to design complementary institutions that reduce pressure on courts while improving outcomes for families and the public.

6. Economic and Fiscal Implications

This section examines the economic and fiscal dimensions of estate administration and adult capacity law in British Columbia. The objective is not to produce precise cost-benefit calculations, but to identify where public resources are currently consumed, how costs are distributed between private parties and taxpayers, and how alternative institutional arrangements might alter those dynamics.

6.1 Court Time, Delay, and Taxpayer Cost

Superior courts are among the most resource-intensive components of the public justice system. While probate filing fees and related charges recover some costs, they do not reflect the full public expense associated with court-based administration, including judicial salaries, registry staff, infrastructure, security, and opportunity cost.

Routine probate and committee matters consume court time even when uncontested. Each hour devoted to administrative filings is an hour unavailable for criminal trials, family law disputes, or complex civil matters. This opportunity cost is difficult to quantify precisely, but it is nonetheless real and cumulative.

In capacity matters, delay can be especially costly. Applications for committee often arise in urgent contexts—hospitalization, cognitive decline, or sudden incapacity—yet are processed through the same institutional pathways as non-urgent civil litigation. The result is that legal delay may produce downstream costs in other public systems before judicial authority is granted.

6.2 Fee-Funded Administrative Models

Administrative adjudication offers a distinct fiscal advantage: it can be designed to operate on a **full cost-recovery basis**, reducing or eliminating reliance on general tax revenue.

A specialized probate and capacity body could be funded through:

- application and processing fees
- progressive charges tied to estate value
- deferred recovery from estates rather than up-front payment

Such models already exist in other administrative contexts and can be structured to ensure that inability to pay does not block access to urgent decisions. Importantly, even when users pay fees, shifting routine matters out of courts generates public savings because court infrastructure remains largely taxpayer-funded regardless of filing volume.

6.3 Progressive and Deferred Fee Structures

Estate-related matters present a relatively rare opportunity for **progressive cost recovery**. Unlike most administrative proceedings, probate and estate administration involve identifiable assets from which fees can be recovered.

A progressive fee structure allows:

- modest estates to face minimal cost
- larger estates to contribute proportionally more
- costs to align with ability to pay rather than procedural complexity

Deferred fees are particularly relevant in adult capacity cases. Where proceedings occur during the lifetime of an incapable adult, requiring substantial up-front payment can create barriers or perverse incentives. Deferral until death—treated as an administration expense of the estate—can preserve access while ensuring eventual cost recovery.

Such structures also reduce pressure on publicly funded bodies, including the **Public Guardian and Trustee**, whose involvement is often triggered by gaps in private authority or inability to act.

6.4 Impacts on the Legal Services Market

Institutional reform would not eliminate demand for legal services, but it would alter its composition.

Routine, procedural work associated with uncontested probate and non-adversarial capacity matters would likely decline. At the same time, demand would remain—or increase—for:

- advisory services
- estate planning
- complex or contested proceedings
- appeals and judicial review

From a fiscal perspective, this shift is significant because routine procedural work currently functions as a **cost amplifier**, increasing transaction costs without necessarily improving outcomes. Reducing such work can lower total system cost while preserving legal expertise where it adds the greatest value.

It is also relevant that some legal costs ultimately become public costs. Where estates are depleted by prolonged administration or litigation, the financial burden of care and support may shift to publicly funded systems.

6.5 Summary of Fiscal Trade-offs

The fiscal implications of reform are best understood as a set of trade-offs rather than a single savings figure:

- **Reduced court utilization** lowers taxpayer-funded judicial and registry costs.
- **Fee-funded administration** shifts costs from the public to estates with capacity to pay.
- **Faster authority** reduces spillover costs in health and social systems.
- **Lower transaction costs** preserve estate value and reduce indirect public exposure.

At the same time, any administrative system requires adequate funding, governance, and safeguards to avoid replicating delay or inefficiency in a new institutional form.

The following section examines one of the most significant areas of spillover cost: the interaction between legal authority, delay, and the health-care system.

7. Health-System Interactions and Public Costs

This section examines the interaction between estate and adult capacity law and the health-care system. While legal processes and health services are administered separately, delays in establishing legal authority frequently produce **direct and indirect costs** for hospitals, long-term care facilities, and publicly funded home-care programs.

7.1 Legal Authority as Health-System Infrastructure

Legal authority—such as the authority to manage finances, consent to care, or arrange living accommodations—functions as a form of **invisible infrastructure** within the health system. When that authority is absent, unclear, or delayed, health-care providers often default to risk-averse decisions that prioritize institutional safety over individualized care.

In British Columbia, clinicians and care facilities cannot determine legal capacity or appoint decision-makers. They must rely on existing powers of attorney, representation agreements, committee orders, or the involvement of the **Public Guardian and Trustee**. Where no clear authority exists, decision-making may stall, even when family support is available and willing.

From a systems perspective, legal authority is therefore not ancillary to health care; it is a prerequisite for timely, appropriate care transitions.

7.2 Delays, Discharge Planning, and Institutional Care

Hospitals are designed for acute care, not for prolonged stays driven by legal uncertainty. However, where no authorized decision-maker can consent to discharge arrangements, manage finances, or secure housing, patients may remain hospitalized longer than medically necessary.

Similarly, when discharge does occur without clear legal authority, interim placement in long-term care or assisted living may be chosen as the least risky option. Once such placements are made, they can become difficult to reverse, even if family members originally intended to provide care at home.

These outcomes are rarely the result of clinical necessity alone. They often reflect **legal and administrative delay**, rather than medical judgment.

7.3 Theoretical Scenarios of Avoidable Public Cost

To illustrate the fiscal implications, consider a theoretical but common scenario:

An older adult with moderate cognitive impairment is hospitalized following a fall. Family members are prepared to arrange home care and manage finances, but no valid power of attorney or representation agreement is immediately available. A committee application is initiated, but

processing takes several months. During that period, the individual remains hospitalized or is transferred to publicly funded residential care.

In this scenario:

- hospital days accrue at public expense
- home-care arrangements are delayed or abandoned
- long-term care placement may become permanent

Had legal authority been established earlier, the same individual might have returned home with family support and community services, at significantly lower public cost.

Such scenarios are not exceptional. They arise from predictable interactions between legal delay and clinical risk management.

7.4 Implications for Home Care and Aging in Place

Public policy in British Columbia emphasizes “aging in place” and the use of home and community-based care where possible. However, these objectives depend on timely legal authority to:

- access funds
- enter contracts
- consent to services
- manage property

Where authority is delayed or disputed, institutional care becomes the default, not because it is optimal, but because it is administratively feasible.

The cost differential between institutional care and home-based support is substantial. Even modest reductions in avoidable institutional placement or hospital stay can therefore yield significant public savings, while also aligning with individual preferences and quality-of-life outcomes.

7.5 Limits of Quantification and Data Gaps

While the interaction between legal delay and health-system cost is conceptually clear, precise quantification remains challenging. Data systems do not routinely track:

- legal status at admission or discharge
- time spent awaiting authority
- counterfactual care pathways

As a result, many costs remain **invisible** within health and justice budgets. This invisibility can obscure opportunities for prevention and lead to underinvestment in legal infrastructure that would reduce downstream health expenditures.

Recognizing these data gaps is essential. It underscores the need for cross-sector collaboration and for evaluation frameworks that capture the full system impact of legal process design.

8. Preventive Functions: Wills, Powers of Attorney, and Representation Agreements

This section examines whether a modernized estate and adult capacity framework should include **preventive functions**—specifically, optional assistance with the creation and secure storage of wills, powers of attorney, and representation agreements. The focus is not on replacing existing legal services, but on reducing predictable system failures that generate downstream legal, administrative, and public costs.

8.1 Intestacy, Lost Documents, and System Failure

Under British Columbia law, dying without a valid will—or with a will that cannot be located or proven—triggers statutory distribution rules and increased court involvement. Similar consequences arise when powers of attorney or representation agreements are absent, defective, or unavailable at the moment they are needed.

Two distinct but related problems recur:

1. **True absence:** no will, power of attorney, or representation agreement was ever made.
2. **Functional absence:** a document exists but cannot be located, cannot be verified, or is not trusted by third parties.

Both situations increase the likelihood of intestacy proceedings, committee applications, involvement of the Public Guardian and Trustee, and delay in establishing lawful authority. These outcomes are disproportionately costly relative to the complexity of the underlying family circumstances.

From a system perspective, these failures are predictable consequences of high barriers to planning and the absence of trusted, discoverable infrastructure.

8.2 Optional, Opt-In Planning Assistance

One potential preventive function is the provision of **optional, opt-in assistance** to support individuals in creating basic estate and incapacity planning documents in straightforward situations.

Such assistance could include:

- plain-language explanations of wills, powers of attorney, and representation agreements
- guided, rules-based document completion for simple cases
- clear warnings where complexity, risk, or potential conflict is identified

- prompts encouraging professional legal advice when appropriate

This approach does not require mandating use of any public tool, nor does it displace private legal or notarial services. Its purpose is to reduce the number of individuals who do nothing—or who rely on defective informal arrangements—because professional services feel inaccessible or unnecessary until a crisis occurs.

8.3 Open Registries and Secure Storage

Even where valid documents exist, the inability to locate or verify them can render them ineffective. An **open, non-exclusive registry** for wills, powers of attorney, and representation agreements could address this problem.

Key features of such a registry would include:

- voluntary participation
- acceptance of documents created privately or professionally
- secure storage or verified location recording
- controlled access with audit trails
- confirmation of revocation or supersession

Importantly, an open registry does not require exclusivity. Individuals could continue to store documents with lawyers, notaries, financial institutions, or at home, while also registering their existence or depositing copies in a trusted public system.

8.4 Expected System and Taxpayer Efficiencies

Preventive functions have the potential to generate efficiencies across multiple systems.

First, **reduced intestacy and lost-document cases** would lower the volume and complexity of probate and capacity proceedings, reducing court time and administrative overhead.

Second, **earlier and clearer authority** would reduce reliance on the Public Guardian and Trustee as a default decision-maker of last resort, allowing its resources to focus on genuinely unrepresented or high-risk cases.

Third, and most significantly, improved availability of powers of attorney and representation agreements would reduce spillover costs to the health system. Timely authority enables faster discharge planning, avoidance of unnecessary institutional placement, and preservation of home-care arrangements. Even modest reductions in avoidable hospital days or long-term care placement can yield substantial public savings.

8.5 In-Person Assistance and Community-Based Delivery

Digital tools alone are insufficient to ensure equitable access. Older adults, individuals with disabilities, people with limited digital literacy, and communities with historical reasons to distrust state systems may face barriers to online-only planning assistance.

To mitigate digital exclusion, preventive functions could be complemented by **in-person assistance**, delivered through physical access points or through funded partnerships with community and Indigenous organizations.

A particularly effective model would treat these organizations not as parallel service providers, but as **human interfaces to the same government portal** used by individuals who access services online. Under this model:

- community organizations assist individuals in understanding options and completing information
- data are entered directly into the official system
- the same validation rules, safeguards, and audit trails apply
- document quality and consistency are maintained
- duplication and bespoke systems are avoided

Such an approach reduces cost while preserving quality control and accountability.

Funding could be structured as **per-file reimbursement**, allowing organizations to be compensated for time spent assisting individuals without requiring block grants or ongoing operational subsidies. This model scales with demand, supports auditability, and recognizes community organizations as delivery partners rather than informal volunteers.

For Indigenous communities in particular, community-based delivery aligns with principles of self-determination, cultural safety, and trust, while still ensuring that documents meet provincial legal standards.

8.6 Risks, Safeguards, and Quality Control

Preventive functions, whether delivered digitally or in person, raise legitimate concerns that must be acknowledged.

Key risks include:

- unauthorized practice of law
- undue influence or lack of capacity at document creation
- misuse of granted powers
- privacy and data security risks

Designing all assistance—whether provided directly to individuals or through community intermediaries—around a **single authoritative portal** mitigates many of these risks. Potential safeguards include:

- strict scope limits to simple situations
- mandatory complexity and risk triggers
- standardized templates and validation rules
- identity verification and role-based access
- immutable audit logs for all access and changes
- clear referral pathways to legal professionals

By combining optional assistance, open registries, and consistent safeguards, preventive functions can reduce risk relative to the current informal and fragmented landscape.

9. Legal and Constitutional Considerations

Any reform that reallocates authority from courts to administrative bodies must be assessed through a legal and constitutional lens. This section outlines the key considerations relevant to estate administration, probate, adult capacity determination, and preventive functions, without presupposing a particular institutional design.

9.1 Administrative Justice and Procedural Fairness

Administrative adjudication is a well-established component of Canadian public law. Legislatures routinely assign decision-making authority to specialized bodies where volume, expertise, or timeliness justify departure from generalist court processes.

The core legal requirement is not that decisions be made by courts, but that decision-making processes meet standards of **procedural fairness** appropriate to the context. These standards typically include:

- notice to affected parties
- an opportunity to be heard
- impartial and independent decision-makers
- reasons sufficient to explain the outcome

In estate and adult capacity matters, many determinations are factually narrow and document-driven. For such cases, administrative procedures can satisfy fairness requirements while avoiding the cost and delay associated with full court processes. More complex or contested matters can be designed to trigger enhanced procedures or referral to courts.

9.2 Judicial Oversight, Appeals, and Review

A central safeguard in administrative justice is the continued availability of judicial oversight. Any reallocation of authority would be expected to preserve:

- appeals on questions of law
- judicial review for jurisdictional error or procedural unfairness

Courts would retain a supervisory role, ensuring consistency with statutory mandates and constitutional principles. This model is consistent with existing administrative regimes in British Columbia, where courts function as a backstop rather than as the primary forum for routine determinations.

Preserving escalation pathways is particularly important in estate and capacity law, where disputes may involve allegations of undue influence, abuse, or significant deprivation of rights.

9.3 Charter and Rule-of-Law Considerations

Reforms must be consistent with the **Canadian Charter of Rights and Freedoms**, including principles of fundamental justice and equality before the law.

Administrative adjudication does not, in itself, engage Charter concerns, provided that:

- access to a fair process is maintained
- decision-makers act within statutory authority
- remedies are available through appeal or review

In some respects, administrative models may enhance Charter values by improving access to justice, reducing delay, and lowering financial barriers that disproportionately affect vulnerable populations.

Rule-of-law considerations also require clarity of jurisdiction, transparency of decision-making, and accountability mechanisms. These considerations argue for clearly defined statutory mandates and published procedural rules.

9.4 Independence and Institutional Design

The legitimacy of any administrative body depends on both actual and perceived independence. Relevant design considerations include:

- appointment processes for adjudicators
- security of tenure appropriate to the role
- protection from improper influence
- separation between adjudicative and operational functions

Independence does not require replication of the judiciary. Rather, it requires safeguards proportionate to the interests at stake. Many administrative bodies in British Columbia operate successfully under such models, balancing independence with efficiency and specialization.

9.5 Preventive Functions and Legal Boundaries

Preventive functions—such as optional assistance with wills, powers of attorney, and representation agreements—raise additional legal considerations.

Key boundaries include:

- avoidance of unauthorized practice of law
- clear distinction between information and legal advice
- voluntariness of participation
- preservation of private alternatives

Designing assistance around standardized information, rules-based guidance, and clear referral triggers helps maintain these boundaries. Where community organizations act as intermediaries, limiting their role to facilitating access to an official portal further reduces legal risk and enhances consistency.

9.6 Summary of Legal Considerations

From a legal and constitutional perspective, the issues raised in this paper are not novel. Canadian public law provides a flexible framework that allows legislatures to:

- allocate decision-making authority to specialized bodies
- tailor procedures to context and risk
- preserve judicial oversight
- expand access without compromising fairness

The central legal question is therefore not whether administrative models are permissible, but how they should be designed to balance efficiency, fairness, independence, and accountability in the specific context of estate and adult capacity law.

10. Stakeholder Impacts

This section examines how the approaches discussed in this paper may affect key stakeholder groups. The analysis is not intended to predict outcomes with certainty, but to identify likely benefits, concerns, and areas requiring careful design.

10.1 Families and Older Adults

For families and older adults, the most significant impacts relate to **timeliness, clarity of authority, and stress reduction**.

Potential benefits include:

- faster establishment of legal authority
- reduced procedural complexity in non-adversarial cases
- clearer recognition of planning documents by third parties
- fewer delays during health or caregiving transitions

For older adults, especially those experiencing cognitive decline, earlier and more accessible planning tools may support autonomy by enabling decisions to be made before capacity is questioned.

Potential concerns include:

- digital exclusion
- risk of undue influence
- anxiety about engaging with unfamiliar administrative systems

These concerns underscore the importance of optional participation, in-person assistance, and safeguards tailored to vulnerability.

10.2 Courts and Justice System Actors

For courts, reallocating routine probate and non-adversarial capacity matters would likely reduce pressure on limited judicial resources.

Potential impacts include:

- fewer administrative filings competing with complex litigation
- improved scheduling and reduced backlog

- clearer differentiation between routine and contested matters

Courts would retain an essential supervisory role through appeals and judicial review, ensuring legal coherence and procedural fairness.

For justice system actors more broadly, reform may require adjustments to established practices, but aligns with a broader trend toward proportionality and specialization.

10.3 Health Authorities and Care Providers

Health authorities and care providers are indirect but significant stakeholders.

Potential benefits include:

- faster confirmation of lawful decision-makers
- reduced discharge delays
- fewer defaults to institutional placement due to legal uncertainty

Clearer authority reduces the need for risk-averse interim decisions and supports care pathways aligned with patient preferences.

Concerns may include:

- verification of documents
- clarity regarding reliance on registries
- integration with existing workflows

These considerations support the value of standardized documentation, verification mechanisms, and clear guidance on reliance.

10.4 Legal Profession

The legal profession would experience **redistribution rather than elimination of work**.

Likely impacts include:

- reduced demand for routine procedural services
- sustained or increased demand for advisory, planning, and contested work
- new opportunities in appeals, mediation, and complex cases

Concerns from parts of the profession may focus on:

- loss of predictable, high-volume files
- quality control of self-guided tools

- unauthorized practice of law

Addressing these concerns requires clear scope limits, referral triggers, and preservation of the lawyer's role where judgment and advocacy add value.

10.5 Public Guardian and Trustee

The **Public Guardian and Trustee** plays a critical protective role for adults who are incapable and unrepresented.

Potential benefits of reform include:

- reduced involvement in routine cases where private authority can be established
- ability to focus resources on high-risk, contested, or abusive situations
- clearer pathways for early intervention and oversight

At the same time, reforms must avoid shifting inappropriate burdens to the PGT or undermining its protective mandate. Clear delineation of roles and referral thresholds would be essential.

10.6 Taxpayers

Taxpayers are indirect stakeholders whose interests are often diffuse but significant.

Potential benefits include:

- reduced reliance on publicly funded court time
- lower downstream health-system costs due to faster authority
- more efficient use of public guardian resources

Costs may include:

- initial investment in administrative infrastructure
- ongoing oversight and evaluation

From a public-interest perspective, the key question is whether reallocating resources upstream reduces larger, less visible costs downstream. The analysis in this paper suggests that even modest improvements in timeliness and prevention may yield meaningful public benefit.

11. Policy Options

This section outlines a range of policy options for addressing the performance gaps identified in earlier sections. The options are presented as **illustrative pathways**, not recommendations. Each reflects different trade-offs in complexity, cost, institutional risk, and potential benefit.

11.1 Option 1: Status Quo with Incremental Improvements

Under this option, the existing court-centred framework would remain intact, with targeted improvements intended to mitigate the most acute problems.

Possible measures could include:

- procedural streamlining for uncontested probate and committee matters
- expanded use of standardized forms and guidance
- limited enhancements to existing registries for locating wills and planning documents
- additional resources for court registries and the Public Guardian and Trustee

Advantages

- minimal structural disruption
- low legal and political risk
- relatively quick to implement

Limitations

- limited impact on systemic delay
- continued reliance on courts for routine matters
- minimal reduction in downstream health-system spillover costs

This option prioritizes continuity, but may be insufficient to address long-term structural pressures.

11.2 Option 2A: Partial Administrative Models (Tribunal-Based)

This option would introduce administrative adjudication for **defined categories** of estate and adult capacity matters, while leaving other functions within the courts.

Possible configurations include:

- administrative determination of uncontested probate applications

- administrative appointment of committees in non-adversarial cases
- tribunal oversight of preventive functions and registries only

Courts would retain jurisdiction over:

- contested matters
- complex estates
- allegations of abuse, undue influence, or fraud

Advantages

- meaningful reduction in routine court workload
- lower implementation risk than full reallocation
- opportunity to pilot and evaluate outcomes

Limitations

- potential duplication between systems
- boundary disputes over jurisdiction
- less opportunity for end-to-end coordination

This option balances reform ambition with caution, but may limit system-wide efficiencies.

11.3 Option 2B: Expanded Role for the Public Guardian and Trustee

An alternative partial-reform pathway would be to expand the mandate of the **Public Guardian and Trustee** to assume additional administrative or quasi-adjudicative functions currently performed by the courts.

Under this model, the PGT could be authorized to:

- process routine, non-adversarial probate or administration matters
- play a greater role in capacity determinations where no dispute exists
- oversee preventive functions and document registries

Advantages

- leverages existing institutional expertise and infrastructure
- potentially less disruptive than creating a new body
- familiar point of contact for health and social systems

Limitations

- potential role conflict between fiduciary/protective functions and neutral adjudication
- heightened importance of independence and procedural safeguards
- risk that high-volume routine work could dilute the PGT's core protective mandate

This option raises important design questions about institutional roles, independence, and public confidence, and may require internal separation of adjudicative and protective functions.

11.4 Option 3: Unified Probate and Adult Capacity Tribunal (Separate Entity)

Under this option, a specialized administrative body—separate from the Public Guardian and Trustee—would assume primary responsibility for:

- routine probate and estate administration
- non-adversarial adult capacity determinations
- supervision of fiduciaries
- preventive functions, including registries and planning assistance

Courts would continue to provide:

- appellate and supervisory oversight
- adjudication of contested or exceptional matters

The Public Guardian and Trustee would retain its protective and fiduciary roles, acting as:

- fiduciary of last resort
- investigator and protector in high-risk cases
- participant or intervener where appropriate

Advantages

- clear separation between adjudication and fiduciary roles
- end-to-end coordination across the life cycle
- strongest potential for cost control and prevention

Limitations

- higher implementation complexity
- greater start-up and governance requirements
- increased scrutiny from professional and institutional stakeholders

This option offers the greatest structural coherence, but also requires the most deliberate design and phased implementation.

11.5 Comparative Summary of Institutional Choices

Across the options, several themes emerge:

- Expanding existing institutions may reduce disruption but raises role-definition challenges.
- Partial tribunal models reduce court reliance but may preserve fragmentation.
- A separate unified tribunal offers clarity and prevention benefits, at the cost of greater complexity.

Importantly, **none of the options eliminate courts, legal counsel, or private alternatives**. Each preserves judicial oversight and voluntary participation in preventive functions.

The choice among these options turns less on legal permissibility—which exists for all—and more on institutional design, public confidence, and tolerance for structural change.

12. Implementation Considerations

This section outlines implementation considerations that would arise under any of the policy options described in Section 11. It does not propose a detailed implementation plan. Rather, it identifies common themes and design choices that would need to be addressed through consultation, piloting, and expert input.

12.1 Phased Rollout and Pilots

Regardless of institutional model, a phased approach would reduce risk and allow evidence-based adjustment.

Potential phasing strategies could include:

- piloting administrative adjudication for uncontested probate only
- piloting non-adversarial adult capacity determinations in defined circumstances
- piloting preventive functions (registries and planning assistance) independently of adjudication

Phased rollout allows:

- testing of procedures and safeguards
- measurement of timeliness and cost impacts
- early identification of unintended consequences

Pilots could be geographically limited or functionally limited, without prejudging long-term institutional design.

12.2 Governance and Appointments

Institutional legitimacy depends on governance arrangements that support independence, accountability, and expertise.

Key considerations include:

- appointment processes for adjudicators or decision-makers
- qualifications and training requirements
- separation of adjudicative, administrative, and protective functions
- transparency of decision-making and reasons

Where responsibilities are shared between a tribunal and existing institutions such as the **Public Guardian and Trustee**, clear delineation of roles would be essential to avoid duplication or role conflict.

12.3 Fee Setting and Cost Recovery

Fee-funded models raise distinct implementation questions.

Considerations include:

- progressive fee structures tied to estate value
- deferral of fees until estate administration is complete
- exemptions or waivers for low-asset or urgent cases
- periodic review of fees to ensure cost recovery without deterrence

Fee design affects not only revenue, but access, behaviour, and public perception. Transparent principles are therefore as important as specific fee amounts.

12.4 Integration with Health and Social Systems

Because legal authority affects health-system decision-making, implementation would benefit from coordination with health authorities and care providers.

Relevant considerations include:

- verification of authority by hospitals and care facilities
- clarity regarding reliance on registries and documentation
- alignment with discharge planning and consent processes

Early engagement with health-system stakeholders could help ensure that reforms reduce, rather than inadvertently increase, administrative burden.

12.5 Data Governance, Privacy, and Trust

Preventive functions and registries raise important data governance issues.

High-level principles likely to be relevant include:

- data minimization and purpose limitation
- user consent and control
- auditability and access logs

- clear breach-response protocols
- separation between data custody and adjudication

Trust in the system depends not only on legal authority, but on confidence that sensitive personal information is handled appropriately.

12.6 Evaluation and Accountability

Implementation should be accompanied by a clear evaluation framework.

Potential evaluation dimensions include:

- time to establishment of legal authority
- volume of court filings avoided
- impacts on Public Guardian and Trustee workload
- health-system interaction metrics
- user experience and accessibility outcomes

Periodic public reporting would support accountability and enable informed decisions about expansion, modification, or course correction.

12.7 Managing Transition and Expectations

Reforms of this nature require careful communication.

Key elements include:

- clear public messaging about what has changed—and what has not
- guidance for legal professionals, banks, and care providers
- support during transition periods when multiple systems coexist

Managing expectations is essential to avoid confusion and maintain confidence during implementation.

13. Research Gaps and Next Steps

This paper has focused on system performance, institutional design, and comparative experience rather than on detailed technical solutions. In doing so, it has necessarily identified areas where additional data, expertise, and analysis would be required before any reform could be designed or implemented. These gaps are not deficiencies of the analysis; they reflect the complexity of the issues and the need for interdisciplinary input.

13.1 Data Gaps and Unknowns

Several important data gaps limit the ability to quantify costs and benefits with precision.

These include:

- the proportion of probate and capacity matters that are uncontested and procedurally routine
- average court and registry time devoted to such matters
- frequency and duration of health-system delays attributable to lack of legal authority
- prevalence of intestacy due to lost or unlocatable wills
- frequency with which Public Guardian and Trustee involvement is triggered by absence of private authority

These data gaps mean that cost estimates presented in this paper are necessarily indicative rather than definitive. Improved data collection would support more accurate modeling and evaluation.

13.2 Areas Requiring Specialized Expertise

Any movement beyond discussion would require expertise well beyond the scope of this paper.

Key areas include:

- constitutional and administrative law (to refine jurisdiction and appeal structures)
- health law and clinical ethics (to align legal authority with care pathways)
- information technology and cybersecurity (to design secure registries and portals)
- privacy and data governance
- Indigenous governance and legal pluralism
- professional regulation and standards of practice

The purpose of this paper is to frame questions in these domains, not to resolve them.

13.3 Evaluation Methodologies

If reforms were piloted or implemented, careful evaluation would be essential.

Relevant methodological questions include:

- how to measure “time to authority” across legal and health systems
- how to identify counterfactual outcomes (what would have happened absent reform)
- how to capture avoided costs that do not appear in a single budget
- how to assess equity impacts across different populations

Developing appropriate evaluation frameworks would require collaboration among justice, health, and social policy experts.

13.4 Next Steps for Government and Stakeholders

If this discussion is to be advanced, logical next steps could include:

- targeted data collection and publication
- structured consultation with affected stakeholders
- pilot projects with built-in evaluation
- independent review by a law reform or policy body

Importantly, these steps do not require prior agreement on a preferred institutional model. They are compatible with continued exploration of multiple options.

13.5 Purpose of This Paper Revisited

This paper does not present a finished proposal. Its purpose is to:

- surface structural issues
- identify plausible pathways
- clarify trade-offs
- invite informed participation

By design, it leaves space for others—policy-makers, practitioners, academics, service providers, and people with lived experience—to contribute expertise and judgment.

14. Conclusion

This discussion paper has examined whether British Columbia’s current approach to estate administration, probate, and adult capacity determination continues to meet public policy objectives of timeliness, proportionality, accessibility, and efficient use of public resources.

The analysis suggests that many of the challenges experienced by families, courts, and public systems are **structural rather than episodic**. High-volume, largely routine determinations remain heavily dependent on court processes designed for adversarial dispute resolution. Delays in establishing legal authority can cascade into other systems—most notably health care—shifting avoidable costs from private families to publicly funded institutions.

Comparative experience in **British Columbia** and elsewhere demonstrates that legislatures have repeatedly responded to similar pressures by reallocating routine decision-making to specialized administrative bodies, while preserving judicial oversight. These reforms have not eliminated courts or legal professionals; rather, they have repositioned them where their expertise adds the greatest value.

The paper has explored a range of possible responses, including incremental improvements, partial administrative models, expansion of the Public Guardian and Trustee, and the creation of a separate unified tribunal. It has also examined preventive functions—such as optional planning assistance and open registries for wills and powers of attorney—that may reduce downstream legal and public costs.

Importantly, the paper does not advocate a single institutional outcome. Instead, it emphasizes the need for careful design, phased implementation, and rigorous evaluation. It acknowledges data gaps, legal considerations, and stakeholder concerns, and it invites further expertise and participation.

The central question raised is not whether courts, lawyers, or existing institutions should be displaced, but whether **current institutional arrangements are the best available means** of delivering timely, proportionate, and cost-effective outcomes for families and the public. As demographic pressures intensify and interactions between legal authority and health care become more frequent, the cost of inaction is likely to grow.

This paper is offered as a foundation for discussion. Its aim is to support informed consideration of how estate and adult capacity law in British Columbia might be modernized to better serve individuals, families, and taxpayers—now and in the years ahead.

Appendix A: Glossary

Administrative body — A statutory decision-making institution that operates outside the superior courts and exercises authority delegated by legislation. Administrative bodies may perform adjudicative, regulatory, or oversight functions and are subject to procedural fairness requirements and judicial review.

Committeeship — A legal arrangement under which a court appoints a person or entity (a committee) to manage the personal, health, or financial affairs of an adult who is found to be incapable of doing so.

Enduring power of attorney — A legal document that authorizes another person to manage financial and legal affairs and continues to be effective after the adult becomes incapable.

Intestacy — The condition of dying without a valid will, or without a will that can be located or proven, resulting in statutory rules governing distribution of the estate.

Judicial review — A process by which courts supervise administrative bodies to ensure decisions are lawful, procedurally fair, and within statutory authority.

Power of attorney (POA) — A legal document authorizing another person to act on one's behalf in financial or legal matters. An enduring power of attorney continues after incapacity.

Probate — The legal process by which a will is validated and authority is granted to administer an estate.

Procedural fairness — Legal principles requiring that decision-making processes be fair and appropriate to the context, including notice, opportunity to be heard, and impartiality.

Public Guardian and Trustee (PGT) — A statutory office responsible for protecting the interests of vulnerable adults and others, and for acting as fiduciary of last resort in defined circumstances.

Representation agreement — A legal document under British Columbia law that authorizes another person to assist with or make personal, health, and sometimes financial decisions, often emphasizing supported decision-making.

Tribunal — A type of administrative body whose primary function is adjudication. In this paper, the term is used interchangeably with “administrative body” to describe non-court adjudication.

Appendix B: Relevant Statutory Framework (Overview)

The issues discussed in this paper intersect with several key statutes, including but not limited to:

- Wills, Estates and Succession Act (British Columbia)
- Patients Property Act (British Columbia)
- Power of Attorney Act (British Columbia)
- Representation Agreement Act (British Columbia)
- Public Guardian and Trustee Act (British Columbia)
- Supreme Court Civil Rules (British Columbia)
- Canadian Charter of Rights and Freedoms

This appendix is intended for orientation only. Detailed statutory analysis and legislative drafting are beyond the scope of this paper.

Appendix C: Comparative Reform Examples — Structural Summary

This appendix summarizes selected areas of law in British Columbia and comparable jurisdictions where high-volume, largely non-adversarial determinations have been shifted from generalist courts to specialized administrative bodies. The purpose is not to equate substantive subject matter, but to highlight recurring institutional design patterns relevant to estate administration and adult capacity law.

C.1 Workers' Compensation

- **Pre-reform model:**
Fault-based tort litigation in the courts for workplace injuries.
- **Reformed model:**
Administrative adjudication through a specialized statutory body (e.g., WorkSafeBC).
- **What shifted from courts:**
Routine entitlement determinations and benefit administration.
- **What remained with courts:**
Judicial review and limited appeals on questions of law.
- **Structural relevance:**
Demonstrates durability of removing high-volume, repetitive determinations from courts while preserving oversight.

C.2 Automobile Insurance (No-Fault Models)

- **Pre-reform model:**
Tort-based litigation for most motor vehicle injury claims.
- **Reformed model:**
Administrative determination and defined benefits through a public insurer (e.g., ICBC).
- **What shifted from courts:**
Routine injury claims and compensation disputes.
- **What remained with courts:**
Constitutional challenges, judicial review, and defined exceptional cases.
- **Structural relevance:**
Illustrates cost control, timeliness, and predictability gains through administrative pathways.

C.3 Civil Resolution Tribunal (British Columbia)

- **Pre-reform model:**
Small civil and strata disputes litigated in Provincial or Supreme Court.
- **Reformed model:**
Online-first administrative tribunal emphasizing proportionality and accessibility.
- **What shifted from courts:**
High-volume, lower-value disputes.
- **What remained with courts:**
Appeals on questions of law and judicial review.
- **Structural relevance:**
Shows how procedural simplification and specialization can improve access to justice.

C.4 Residential Tenancy Dispute Resolution

- **Pre-reform model:**
Landlord-tenant disputes resolved through courts.
- **Reformed model:**
Administrative adjudication through a specialized branch.
- **What shifted from courts:**
Most tenancy disputes, including possession and rent issues.
- **What remained with courts:**
Enforcement and judicial review.
- **Structural relevance:**
Demonstrates administrative handling of matters involving housing security and property interests.

C.5 Human Rights Adjudication

- **Pre-reform model:**
Civil litigation or limited statutory mechanisms.
- **Reformed model:**
Specialized human rights tribunals.
- **What shifted from courts:**
Initial adjudication of discrimination complaints.
- **What remained with courts:**
Judicial review and constitutional interpretation.

- **Structural relevance:**
Confirms that matters involving fundamental rights can be adjudicated administratively with safeguards.

C.6 Mental Health Review Processes

- **Pre-reform model:**
Court-centric review of involuntary detention and treatment.
- **Reformed model:**
Specialized review boards with expedited timelines.
- **What shifted from courts:**
Initial and periodic review of detention and treatment decisions.
- **What remained with courts:**
Judicial review and Charter oversight.
- **Structural relevance:**
Highlights the importance of timeliness and expertise in capacity-related determinations.

C.7 Cross-Cutting Structural Features

Across these diverse domains, several common design elements emerge:

- specialization of decision-makers
- procedures proportional to complexity and risk
- reduced reliance on adversarial processes
- preservation of judicial oversight
- improved timeliness and system efficiency

These features are not unique to any single area of law. They reflect broader institutional choices about how governments allocate decision-making functions between courts and administrative bodies.

C.8 Relevance to Estate Administration and Adult Capacity Law

Estate administration and adult capacity determination share key characteristics with the systems summarized above: high volume, predictable fact patterns in many cases, time sensitivity, and significant interaction with other public systems. The comparative experience suggests that administrative adjudication is a well-established option for addressing such challenges, provided that scope, safeguards, and oversight are carefully designed.