



Draft of MNO Code of Conduct

Version: February 2022

MÉTIS NATION OF ONTARIO

Code of Conduct

This draft Code of Conduct identifies decision points and options for MNO consideration in developing a Code.

Options for Title:

- “MNO Code of Community Standards”
- “MNO Guide to Conduct in Governance Settings”
- “MNO Rights and Responsibilities”

EFFECTIVE DATE

The Métis Nation of Ontario (the “MNO”) Code of Conduct (the “Code”) was adopted by the Provisional Council of the Métis Nation of Ontario (the “PCMNO”) on [DATE] and is effective immediately.

PURPOSE

This Code aims to set standards for the behaviour of all MNO citizens, including MNO elected officials, in their interactions with each other when participating in the collective work of the MNO. It is built on a foundation of MNO core values and principles identified in the *MNO Statement of Prime Purpose*.

The Code is intended to facilitate the respectful exchange of ideas and perspectives, but also to ensure that MNO citizens are accountable for their words and actions to one another. It serves to create positive spaces for discussion, innovation, and community development to support MNO’s self-governance.

The Code does not attempt to limit or restrict the freedom of expression or speech of MNO citizens. Rather, it is intended to ensure that all MNO citizens can effectively and respectfully exercise their democratic rights, including their right to advocate for changes to MNO policies and governance structures.

APPLICATION

The Code applies to all MNO citizens, including MNO Elected Officials.

It applies to all conduct which has a significant connection to MNO governance activities. This includes:

- Conduct at all MNO meetings, including meetings of the Provisional Council of the MNO (“PCMNO”), the Annual General Assembly (“AGA”), Community and Advisory Councils, the Regional Consultation Committee, and others;
- All other MNO-sanctioned events; and
- Online conduct, including social media (Facebook, Twitter etc.) and e-mails related to MNO governance activities

Options for Application:

- General discussion of kinds of activities we wish to cover to get “scope of application” right
- Should we provide specific examples of the types of activities to which this code applies to make it clear?
- Should the Code always apply to elected officials, even when not engaging in governance activities? Or should it apply to elected officials when they are reasonably expected to be representing MNO?

MNO Elected Officials

An MNO elected official is an elected or appointed member, councillor, director or trustee of any MNO governance institution, including the PCMNO; or, a director or officer of any MNO Economic Development Structure as defined in the *MNO Prosperity and Self Sufficiency Law*.

MNO elected officials have greater responsibilities and are thus held to higher standards than other MNO citizens. In addition to this Code, MNO elected officials are required to comply with the *MNO Conflict of Interest and Confidentiality Policy* (the “Policy”). The Policy prohibits MNO Elected Officials from:

- i. carrying out their responsibilities or exercising their powers in a way that benefits them personally; and,
- ii. accessing, using or sharing confidential information in inappropriate ways, including in a way that benefits them personally.

STATEMENT OF VALUES

All MNO citizens are responsible for conducting themselves in a way that upholds and advances the *MNO Statement of Prime Purpose* and this Code of Conduct. These values are a compass to guide MNO citizens, including elected officials, in everything they do. These values are:

Democracy: MNO’s democratic system is fundamental to our governance. MNO citizens are encouraged to fully participate in MNO’s democratic process and functions, and to encourage their fellow citizens to do the same.

Respect: Treating all people with respect, dignity, and fairness is fundamental to the relationship of MNO citizens with each other and contributes to a safe and healthy environment that promotes engagement, openness, and transparency. A diversity of views, opinions, and ideas is encouraged as they serve to strengthen our community.

Fairness and equality: Every MNO citizen who wishes to participate in MNO governance activities must be given the opportunity to do so. All MNO citizens must be treated equally, regardless of their religion, sex, age, mental or physical ability, gender identity, sexual orientation, marital or family status, or other differences.

Honesty and truth: MNO citizens must always act with integrity and good intentions, and refrain from personal attacks, gossip, and spreading misinformation.

STANDARDS FOR MNO CITIZEN CONDUCT

Following from our shared values, and to uphold our commitment to the *MNO Statement of Prime Purpose*, all MNO citizens, including elected officials, are expected to hold themselves to the following standards of conduct:

1. Listen to and acknowledge other peoples' opinions, beliefs, experiences, and points of view to allow for the full and free expression and participation of all MNO citizens;
2. Do not harass or discriminate against other MNO citizens through conduct or comment which is degrading, malicious, racist, sexist, or otherwise abusive;
3. Do not physically or verbally threaten any other MNO citizen;
4. Refrain from any behaviour that constitutes sexual harassment such as:
 - a. Sexist jokes
 - b. Unwelcome sexual comments and sexual advances
 - c. Persistent unwanted contact
 - d. Using power or authority to coerce another person to engage in inappropriate activities;
5. Refrain from disclosing another person's private information without permission;
6. Refrain from misusing or disrespecting the processes of this Code through behaviour such as:
 - a. Bringing unfounded complaints with malicious, frivolous, or vexatious intent
 - b. Failure to comply with the reasonable requests of the Office of Ethics and Integrity
 - c. Failure to attend meetings or hearings regarding alleged breaches of this Code
 - d. Retaliation against any participant in the Code process

- e. Failure to comply with remedies or resolutions under the Code.

Options for this Section Content:

- Discussion on other kinds of behaviour we wish to capture to ensure we have “scope of application” right.
- Should we be more or less detailed in setting out behaviours?
- More detailed:
 - Gives more explicit guidance, clarity and transparency
 - Reduces “flexibility” to deal with unique circumstances, feels more like a punitive code, rather than a positive “value affirming” document.

COMMUNITY-BASED CONFLICT RESOLUTION

The Office of Ethics and Integrity (the “Office”), led by the Commissioner of Ethics and Integrity (the “Commissioner”), offers conflict resolution training to MNO citizens. MNO citizens trained in conflict resolution can sign up as Resolution Advisors.

Resolution Advisors can:

- Be called upon by MNO citizens for informal assistance to resolve conflicts,
- Assist in cooperative dispute resolution under the Code,
- Assist in conducting hearings under the Code, and
- Be members of an Appeal Panel convened for the purpose of reviewing the Commissioner’s decision after a hearing under the Code.

REPORTING AND RESOLUTION PROCESS

The Office is responsible for making sure the Code is upheld. The Office is an independent body that is responsible for implementing the Code and investigating complaints under the Code. Complaints to the Office will be reviewed, investigated, and resolved in a timely and fair manner. Any MNO citizen who reasonably believes that the Code has been breached may file a complaint with the Office. The person making the complaint is called the “Complainant” and the person against whom the complaint is made is called the “Respondent.”

The Office will review the complaint to determine if it falls within the scope of the Code. If it does, the Office will determine the appropriate process to resolve the complaint, which may include restorative justice, formal mediation, investigation, or a hearing. In making this determination, the Office will be guided by factors such as the seriousness of the offense, any history of repeated offenses, and the willingness of the Complainant and Respondent to undertake cooperative dispute resolution (i.e., restorative justice or mediation).

For more serious breaches of the Code, the Office will refer the matter to a hearing. Hearings are held by the Commissioner. The Commissioner will establish a roster of Resolution Advisors to run the hearing. At the conclusion of an investigation or a hearing, a Resolution Report outlining the decision and remedies, if any, will be issued to the Complainant and Respondent.

Where an investigation or hearing results in the most serious remedies, the Respondent can appeal the decision to an Appeal Panel made up of three MNO citizens (Resolution Advisors). In all other cases, the Respondent may request that the Commissioner's decision be reviewed by the Appeal Panel. Requests for Review must meet listed grounds for review. A decision by the Appeal Panel is final.

Please see the *Office of Ethics and Integrity Reporting and Resolution Process for Breaches of Community Standards* (APPENDIX A) for further guidance on reporting and resolution.

REMEDIES

The following remedies may be imposed for a breach of the Code. They may also form part of any cooperative resolution agreed to by the Complainant and the Respondent.

- Verbal warning
- Written warning
- Requiring an apology to the Complainant
- Completing treatment or counselling programs
- Public statement
- Community service
- Temporary suspension or removal from office for elected officials
- Exclusion from certain MNO activities

The most serious remedies—like exclusion from certain MNO activities—carry an automatic right of review by the Appeal Panel.

The remedies listed above are non-exhaustive. In addition to the remedies listed above, the Commissioner or Appeal Panel may impose additional or other remedies, as appropriate.

Remedies imposed for a breach of the Code must be tailored to the seriousness of the breach. Generally, the most serious types of misconduct will merit the most serious consequences. A history of breaching the Code may be considered in determining an appropriate remedy.

If remedies or resolutions are not followed, the Commissioner can treat that as another breach of the Code and initiate another investigation.

Options for Remedies:

- Provide a more exhaustive list of remedies.
- Be less specific and allow the Commissioner or Appeal Panel to determine their own remedies.
- Have the Office create and release guidelines for determining appropriate remedies as a tool for transparency.
- Consider whether there should be a more restorative and collaborative approach to determining remedies, which aims to promote healing, community values, and situation-specific resolution.

APPENDIX A

Office of Ethics and Integrity Reporting and Resolution Process for Breaches of Community Standards

1. Filing a Complaint

To file a complaint, you can access the complaint form online at [WEB LOCATION]. Complaints can also be filed in-person at the Office of Ethics and Integrity (the “Office”).

Your complaint must be filed within six months of the alleged misconduct taking place.

A person who makes a complaint is called a “Complainant” and the person against whom the complaint is made is called a “Respondent.”

2. Complaint Response

Within 5 business days, the Office will conduct an initial assessment of the complaint to determine:

- Whether it falls within the scope of the Code. If it does not fall within the scope of the Code, a Resolution Advisor can assist with informal resolution.
- The seriousness of the breach.

Based on this initial assessment, the Office will recommend options for resolution, which can include cooperative dispute resolution (i.e., restorative justice or mediation) where appropriate and where the Complainant and the Respondent agree, or a hearing by the Commissioner for more serious breaches.

3. Cooperative Dispute Resolution

Cooperative dispute resolution will be based in Métis views and values and can take one of two forms: restorative justice or formal mediation. Resolution Advisers trained in restorative justice processes and mediation will conduct these processes. [Do we want to include timelines for all of these processes?]

Restorative justice offers a forum for the Complainant and the Respondent to discuss the complaint and the impact of the alleged misconduct, and to jointly develop an acceptable resolution.

Formal mediation begins with two separate meetings: one with the Resolution Advisor and the Complainant, and another with the Resolution Advisor and the Respondent. Once the Resolution Advisor has completed these meetings, they will assist and guide the Complainant and the Respondent toward a resolution.

If the Complaint and the Respondent reach a resolution, the case will be closed. Resolutions may include remedies identified in the Code, or other resolutions agreed to by the Complainant and Respondent. If the Complainant and the Respondent cannot come to a resolution cooperatively, the complaint will proceed to a hearing by the Commissioner.

Discussions that take place as part of cooperative resolution are confidential and information shared during these discussions may not be used by either the Complainant or the Respondent against the other party in the hearing process by the Commissioner.

4. Investigation

For complaints where cooperative resolution is not appropriate, or the Complainant and Respondent cannot come to a resolution after cooperative dispute resolution processes, the Office will initiate an investigation into the Complaint. As part of this investigation, the Office will gather information from the Complainant and Respondent, and other witnesses as appropriate. The Commissioner can then choose to proceed to a hearing or issue a Resolution Report.

The Resolution Report must include:

- i. The Commissioner's decision as to whether the Respondent breached the Code;
- ii. Reasons for the decision; and,
- iii. Remedies.

5. Hearing by the Commissioner

For complaints not resolved through cooperative resolution or through the investigation, a hearing by the **Commissioner or Resolution Advisor** will be held.

Hearings will be conducted by the Commissioner or Resolution Advisor. Hearings may include testimony by the Complainant and the Respondent and testimony by any witnesses called by either the Complainant or the Respondent. During the hearing, the Commissioner or Resolution Advisor is permitted to ask questions to clarify his or her understanding of the testimony. A hearing will take **one business day**.

At the conclusion of the hearing process, whether immediately following the conference or following a hearing, the Resolution Advisor will make recommendations to the Commissioner, who will then issue a Resolution Report within 10 business days.

The Resolution Report must include:

- iv. The Commissioner's decision as to whether the Respondent breached the Code;

- v. Reasons for the decision; and,
- vi. Remedies.

The Resolution Report will be confidential between the Complainant and Respondent, but the Office may report annually in the aggregate about the number of complaints received and the nature of remedies imposed.

Option for Hearing:

- The hearing can be run by the Commissioner, Resolution Advisors, or Office staff. The determination of who runs the hearing could be based on the seriousness of the complaint.
- Consider maintaining a roster of Resolution Advisors with 2 MNO citizens from each region, for a total of 18.

6. Appeal by a Panel of MNO Citizens

The Appeal Panel will be made up of three MNO Citizens (Resolution Advisors). The Office will keep a roster of Resolution Advisors who could fill a three-person panel to review decisions made by the Commissioner. Resolution Advisors who form an Appeal Panel for any given complaint will be screened for conflict of interest.

Decisions by the Commissioner after a hearing that impose the most serious remedies (such as exclusion from MNO events) carry an automatic right of review by the Appeal Panel.

For all other decisions, a Respondent may request a review of the decision or the remedies imposed, if:

- i. The Commissioner made a significant mistake or error in carrying out the processes under the Code or in the investigation that negatively impacted the Respondent;
- ii. The remedies were too severe and do not fit the breach, or should be reconsidered for other reasons; or,
- iii. The Respondent has new evidence to present that was not available at the time of the Commissioner's investigation.

The request for review must include detailed reasons and can be filed online at [WEB LOCATION] or in-person at the Office of Ethics and Integrity. Requests must be submitted within 10 business days of the Commissioner issuing their report. Requests for review will be considered by the Appeal Panel. A response from the Appeal Panel, either granting or rejecting the review, is required within 3 business days of the Office receiving the request.

After a hearing, the Appeal Panel may:

- i. Affirm the Commissioner's decision;
- ii. Affirm, reduce, or increase the remedies; or,
- iii. Order the Commissioner to conduct a new investigation.

The Appeal Panel must render its decision within **10 business days** of the hearing.