



Draft of MNO Conflict of
Interest & Confidentiality Policy
Version: February 2022

MÉTIS NATION OF ONTARIO

Conflict of Interest and Confidentiality Policy

EFFECTIVE DATE

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

APPLICATION

The Policy applies to all current and former MNO Elected Officials.

PURPOSE

The purpose of the Policy is to ensure that the MNO can provide transparent and accountable government by requiring that MNO Elected Officials perform their duties and exercise their powers in accordance with those Métis values identified in the MNO *Statement of Prime Purpose*, including the values of honesty and truth, doing so impartially and with regard to the common good of all MNO citizens.

Officials are political representatives serving MNO citizens and will be held to a high standard of conduct. MNO citizens are entitled to fair, ethical, and accountable representation by their Elected Officials.

DEFINITIONS

“**Appeal Panel**” means a panel appointed by the Office of Ethics and Integrity consisting of three MNO citizens.

“**Commissioner**” means the Commissioner of Ethics and Integrity appointed by [WHO?].

“**MNO Elected Official**” means elected or appointed members, councillors, directors or trustees of any MNO governance institution, including the PCMNO; or, directors or officers of any MNO Economic Development Structure as defined in the *MNO Prosperity and Self Sufficiency Law*.

RESPONSIBILITIES OF ELECTED OFFICIALS

Conflict of interest

An MNO Elected Official has a conflict of interest if they exercise an official power or perform an official duty or function knowing that in so doing, there is the opportunity to further their private interest.

An MNO Elected Official must not exercise an official power or perform an official duty or function if he or she has a conflict of interest.

Without limiting the foregoing, an MNO Elected Official must not:

- i. Use MNO property for any purposes other than approved purposes;
- ii. Behave in a way that may place them, or be seen to place them, under obligation to persons or organizations seeking to gain privileged consideration for their own purposes; or,
- iii. Accept gifts or other benefits which could be viewed as payment or reward for services rendered, except as otherwise provided for in the Policy.

Accepting Gifts or Benefits

An MNO Elected Official may accept gifts or other benefits if it:

- i. Would normally be considered within normal protocol exchanges or social obligations associated with the Elected Official's office or duties;
- ii. Would normally be considered within normal exchanges common to ordinary business relationships;
- iii. Is of nominal value;
- iv. Is given by a friend or a relative solely as an element of that relationship; or,
- v. Is of a type that is permitted under the policies or directions issued by the PCMNO.

If a gift or benefit with a value greater than \$500 [TO DISUCSS VALUE] is given to an MNO Elected Official, they are not in a conflict of interest provided they make a written disclosure of the gift or benefit to the PCMNO, which may require that the gift or benefit be made the property of the MNO.

Disclosing a Conflict of Interest

Upon election or appointment, all MNO Elected Officials shall provide a Conflict of Interest Disclosure Form to the MNO Chief Operating Officer. A copy of the form is attached to this policy (APPENDIX A). MNO Elected Officials have primary responsibility in the identification and management of their own conflict of interest.

Upon recognizing the potential for a conflict of interest, Elected Officials must:

- i. Immediately disclose the particulars of the real or potential conflict of interest; and,
- ii. Withdraw from any discussion on the matter and from decision-making on any question relating to it.

Where Elected Officials withdraw from discussion and decision-making upon declaring a conflict of interest, their absence must not be taken into account in determining whether a quorum is present for that meeting.

Confidentiality

An MNO Elected Official, while serving in an official position or at any time after ceasing to serve in that position, shall respect and preserve the confidentiality of information provided to them concerning confidential matters of the MNO.

Confidential information includes information that is:

- i. Supplied in confidence to the MNO;
- ii. Not generally available to all MNO citizens; or,
- iii. Obtained while serving in an official role or position.

An MNO Elected Official shall not:

- i. Access, disclose or release confidential information without proper authorization; or,
- ii. Use or access confidential information if doing so would further their private interest, confer any personal benefit, or could reasonably be perceived as doing so.

REPORTING AND RESOLUTION

The independent Office of Ethics and Integrity is responsible for investigating conflicts of interests and breaches of confidentiality.

Any MNO citizen who reasonably believes that an MNO Elected Official exercised an official power or performed an official duty whilst in a conflict of interest, or breached confidentiality, contrary to the Policy, is encouraged to file a complaint to the Office of Ethics and Integrity.

The Office of Ethics and Integrity will review the complaint to determine if it falls within the scope of the Policy. If the Office of Ethics and Integrity determines that the matter falls within the scope of the Policy, the Commissioner will initiate an investigation.

The Commissioner may also initiate an investigation on his or her own initiative if the Commissioner reasonably believes a conflict of interest or breach of confidentiality has occurred.

If after an investigation the Commissioner finds that an Elected Official has improperly exercised an official power or performed an official duty or function, or breached confidentiality as set out in the Policy, sanctions will be imposed.

If the Commissioner makes a finding that an MNO Elected Official is found to have improperly exercised an official power or performed an official duty or function, or breached confidentiality

as set out in the Policy, the MNO Elected Official may request a review of the Commissioner's decision by the Appeal Panel under certain conditions. An Appeal Panel's decision on a request for review is final.

Please see the *Office of Ethics and Integrity Reporting and Resolution Process for Conflicts of Interest and Breaches of Confidentiality* (APPENDIX B) for further guidance on reporting and resolution.

SANCTIONS

The following sanctions may be imposed by the Commissioner for a breach of the Policy.

- Verbal warning
- Written warning
- Apology
- Mandatory training
- Public statement
- Temporary suspension
- Removal from office

Removal from office carries an automatic right of review by the Appeal Panel.

The sanctions listed above are non-exhaustive. In addition to the sanctions listed above, the Commissioner or a panel may impose additional or other sanctions, as appropriate.

Sanctions imposed must be proportionate to the breach. Generally, the most serious types of misconduct will merit the most serious sanctions. Prior breaches of the Policy may be considered in determining an appropriate sanction.

Options for Sanctions:

- Refer to a basic range of sanctions within which there may be any number of additional sanctions which the Commission or a panel may choose to impose.
- Present an exhaustive list of sanctions available to the Commissioner or a panel.

APPENDIX A

[Placeholder for MNO's existing Conflict of Interest Disclosure Form]

APPENDIX B

Office of Ethics and Integrity Reporting and Resolution Process for Conflicts of Interest and Breaches of Confidentiality

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.

Your complaint must be filed within 10 business days of the alleged misconduct taking place.

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

2. Complaint Response

Once your complaint is received, the Office of Ethics and Integrity will determine whether the alleged breach falls within the scope of the Policy. If it does not fall within the scope of the Policy, an advisor can assist with informal resolution.

If the complaint falls within the scope of the Policy, the Respondent will be notified and the complaint will proceed to an investigation by the Commissioner of Ethics and Integrity (the “Commissioner”). The identity of the Complainant will be kept confidential.

The Office of Ethics and Integrity will respond to your complaint within 5 business days of it being filed.

3. Investigation by the Commissioner

The Commissioner will initiate their investigation within 14 business days of the complaint being referred to them.

The Commissioner will gather facts by meeting separately with the Complainant and the Respondent and, if necessary, any witnesses that are identified in the complaint or by the Complainant and/or Respondent during their meetings with the Commissioner. The identity of any witnesses will be kept confidential.

Once the Commissioner has gathered the facts, they will issue a Resolution Report which must include:

- i. Their decision as to whether the Respondent breached the Policy;
- ii. Reasons for their decision; and,
- iii. Sanctions.

The Commissioner will issue their report within **10 business days** of concluding their investigation.

Option for Hearing: The Commissioner could hold an oral hearing and the Respondent present their positions to the Commissioner in-person, where any witnesses may also provide oral testimony.

4. Requests for review of a decision by the Commissioner

Decisions by the Commissioner that impose the most serious sanctions, such as removal from office, carry an automatic right of review by the Appeal Panel.

For all other decisions, a Respondent may request a review of the decision of the sanctions 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 sanctions 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 a panel of three members. The panel may

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

The Appeal Panel must render its decision within **10 business days** of receiving the request for review.