



***The mission of the Odanak Band Council consists of ensuring the representation of the members of the Abenaki Community of Odanak and favouring the preservation of their identity, culture and quality of life.***

***To do this, the Council seeks to provide top-quality services to youths, elders and the whole Community, to the extent allowed by band resources.***

# **Code of Conduct and Complaints Policy**

*Revised in August 2005*

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## 1. Purpose of the Policy

The purpose of the present policy is to establish a code of conduct to which the Odanak Band Council members and staff must refer for the administration of band affairs.

## 2. Objectives Pursued by the Band Council

- Favour transparency, justice and efficiency in the Band Council administration.
- Avoid favouritism in the administration of band affairs.
- Define the fundamental rules of behaviour required of staff member or elected representatives.
- Determine the procedure to be followed in the event that a staff member or elected representative is found in a conflict of interest situation.
- Establish the complaints procedure.

## 3. Code of Conduct

Management **integrity** presumes that administrators are honest and incorruptible. **Just** management implies that the administrators give fair treatment to all community members. Finally, **efficient** management means that, in all situations, administrators produce maximum results with a minimum of effort.

A way to achieve these imperatives of integrity, justice and efficiency in the exercise of one's duties consists of referring to a code of conduct containing certain number of rules of fundamental behaviour. One can say that the bottom line of this code of conduct is contained in the following sentence: **Do not place yourself in an awkward situation, meaning a situation that is hard to justify if revealed.**

More explicitly, the code of conduct required of the public administrator is defined in three rules of fundamental behaviour, which can usually guarantee the absence of conflict of interest situations or even allow one to adequately manage such situations, should they occur. The three rules of fundamental behaviour are defined as follows:

**In the exercise of his\* duties, the staff member or elected representative must:**

### **a) Adopt a professional, responsible and constructive attitude.**

For Band Council members, this first rule of behaviour is found in the statement of the "Role and Responsibilities of the Band Council". As for the staff, it found in the documents entitled "Staff Management Policy" and "Job Description".

\* - In order to lighten the text, the masculine form includes the feminine.

**b) Act with caution, honesty, loyalty, impartiality, effectiveness and courtesy.**

The second rule of behaviour is mainly established by the management policies in force for each program and any other policy adopted by the Band Council.

**c) Avoid the acquisition of personal benefits as a direct or indirect result of one's duties and also ensure respect of the public interest in each Band Council decision.**

The third rule of behaviour, which is directly related to the notion of conflict of interest, is dealt with in the following paragraphs.

#### **4. Notion of Conflict of Interest**

**Conflict of interest exists in any situation presenting a risk where personal interest prevails over the collective interest and such situations compromise the independence and the impartiality required for the exercise of a duty. This situation can be real, apparent or potential.** The risk of this occurring is sufficient, since it can affect the credibility and integrity of the Band Council.

##### Examples of conflict of interest situations

- A staff member or elected representative finds himself in a conflict of interest situation when he makes the decision of allocating a service contract, without a call for tenders, to a company partly or entirely belonging to him.
- A staff member or elected representative finds himself in a conflict of interest situation if he names a member of his immediate family to a Band Council position, without this person having to comply with a selection competition. Note that the description of the immediate family is limited, for the present policy, to the spouse of the staff member or elected representative, his child and his spouse's child, his brother, sister, father and mother. This last example indicates how a conflict of interest can exist even if the consequences of the interested act are not prejudicial to the public interest.

However, conflict of interest situations cannot be entirely eliminated, especially in a small community like Odanak, where a staff member or elected representative will frequently have to process the file of an immediate family member. In addition, the latter are entitled to have access to services and be considered on the same equal footing as other community members.

Therefore, they must not be subject to exceptional measures that put them at an advantage or disadvantage. The policy must allow for the fair treatment of these cases while strengthening the public trust, meaning its conviction that the government has management integrity.

Obviously it is impossible to exactly describe all possible conflict of interest situations. However, it is generally agreed that the following situations or behaviour must be avoided:

- Using one's decision-making position to obtain benefits for oneself or for an immediate family member.
- Using Band Council property for personal purposes.
- Accepting goods or services from a person or organization outside the Band Council.
- Using inside information for personal purposes.

## **5. Procedures in the event of conflict of interest**

### **5.1 Current conflict of interest situations**

A conflict of interest situation does not necessarily represent a problem situation. It often occurs that a staff member or elected representative of a public organization finds himself confronted with a conflict of interest situation.

**When a conflict of interest situation occurs, the staff member or elected representative must have the vigilance of declare, to his peers (for an elected representative) or to his superiors (for a staff member), the existence of such a situation.**

**When the conflict of interest situation was declared, the staff member or elected representative must then allow a free discussion on the subject, in order to make a fair and official decision.** The objective is to prevent the conflict of interest situation from being prejudicial to Band Council interests, along with the interests of the staff member or elected representative.

Three rules must be respected for the purpose of preventing and solving current conflict of interest situations:

- a) Declarer to his superior or to the Band Council, the existence of a real, apparent or potential conflict of interest situation.
- b) Never decide alone, when the situation affects a staff member, elected representative or immediate family member.
- c) For an employee, the decision must be formulated in writing and signed by the director general. For an elected representative, the former must not participate in the discussion leading to a Band Council decision.

When there is a breach on the part of a staff member, disciplinary measures vary according to the severity of the action, ranging from a simple warning to a dismissal, can be imposed by the Band Council.

When there is a breach on the part of an elected representative, the latter is subject to a formal warning from the Band Council. Should the situation reoccur, the Band Council can decide to revoke his responsibilities. The Band Council can also choose to deal with the issue during a public meeting.

## **5.2 Prohibited conflict of interest situations**

Conflict of interest situations involving **fraud** and **bribes** are prohibited and liable to litigation, in compliance with the effective laws on this matter. Dismissal of the employee applies to a prohibited conflict of interest situation.

## **6. Application of the code of conduct**

The present policy seeks to favour the achievement of honest, just and effective management. Moreover, each individual, member and employee of the Band Council has this primary responsibility; to ensure that they do not find themselves in a real, apparent or potential conflict of interest situation that is unmanaged.

### Band Council Responsibilities

- The Band Council must ensure the enforcement of the present policy and raise the problems related to conflicts of interests when they occur.
- The Band Council must decide, by means of a resolution, on the actions to be taken in unmanaged conflict of interest situations and the disciplinary measures to be taken when the policy is not respected.
- The Band Council must process, by means of a resolution, all cases where the present policy was breached; this applies to breaches in current conflict of interest situations and in prohibited conflict of interest situations.

### Recourse for community members

After attentively reading the present policy, any community member registered on the band list, can raise a conflict of interest situation where he feels that the procedure was not respected. The complaint must be addressed in writing to the Chief. The plaintiff must explain the conflict of interest situation and the alleged breach.

Two Band Council members, accompanied if necessary by the director general, meet with the plaintiff in order to exchange their points of view on the subject of the complaint. Following the meeting with the plaintiff, the complaint is submitted to and discussed at the Band Council during a working meeting. Should the complaint prove to be justified, the measures set out in the present policy will be enforced. An official letter, stating the official decision rendered by the Band Council, must be addressed to the plaintiff.

## **7. Complaints Policy**

### **7.1 Background**

The Odanak Band Council is in charge of the administrative and financial management of the services and programs for the band members. With the exception of the Community Health Program, which is subject to an agreement with Health Canada, and the Local First Nations Commission (LFNC), all other services and programs are managed according to a Financial Transfer Agreement (FTA) made between the Department of Indian and Northern Affairs Canada (INAC) and the Council in April 1997.

Within these agreements, over the last years, the Band Council has adopted management policies in various administrative sectors, for the purpose of managing band affairs justly and fairly, while respecting the financial limits of the Reserve.

**By adopting a complaints policy, the Band Council express its willingness to respect a fundamental principle of democracy that consists of allowing an individual to assert his point of view when a decision rendered in his regard or in another person's regard appears unjust or unfair to him.**

### **7.2 Objectives of the complaints policy**

- Favour transparency, justice and efficiency in the Band Council administration.
- Allow band members to obtain justice when an error, negligence or abuse was committed in a decision rendered concerning them.
- Improve Band Council services for the benefit of band members according to the funds available to the administration.

### **7.3 Targeted services**

Since 1995, the Band Council has adopted management policies which were rendered public during their enforcement. Let us remember that a policy defines the orientations, rules and operating conditions of a service or program. The policies adopted by the Band Council essentially seek to establish standards allowing for the just and fair administration of Reserve funds of the Reserve for all band members.

As a result, the administrative sectors of income security, housing, economic development and any other administrative sector governed by a management policy adopted by the Band Council representing the sectors targeted by the complaints policy.

#### **7.4 Procedure in the event of a complaint**

Before filing a formal complaint with the Band Council, the plaintiff must become pay close attention to the management policy of the sector targeted by the complaint. Then, the plaintiff must meet with the director general or the employee of the sector concerned by the complaint in order to obtain specifications on the decision rendered in compliance with the policy, within ten (10) working days.

##### Role of the director general or employee

In the event that the meeting with the director general or the employee proves to be unsatisfactory for the plaintiff, the director general or the employee of the sector targeted by the complaint must take note, on the form provided for this purpose, of the reason of the complaint and the explanations provided to the plaintiff. The form must include the following information:

- the sector targeted by the complaint;
- the identification of the plaintiff;
- the reason for the complaint;
- the explanations provided by the director general or employee;
- the signature of the director general or employee;
- the signature of the plaintiff;
- the date of the meeting.

At the next Band Council meeting, the director general presents the case to the Council which either confirms the decision already rendered or decides in favour of the plaintiff. The information on the Band Council decision must be transmitted to the plaintiff by registered mail, as soon as possible.

#### **7.5 Deposit of a complaint**

In the event that the Band Council decision proves to be unsatisfactory, the plaintiff can complete the form provided for the filing of a formal complaint. The plaintiff must provide the following information:

- identify the sector targeted by the complaint;
- register his name, address and number of telephone;
- clearly explain the reason for the complaint;



- describe how the policy was not respected, according to the plaintiff;
- sign and date the form.

The form must be sent to the Chief of the Band Council, by registered mail, within ten (10) working days following the final decision of the Band Council. The ten (10) working days are calculated starting from the date of the registered mail already sent to the plaintiff. Upon reception of the duly completed form, an acknowledgement of reception is returned to the plaintiff.

## **7.6 Role of the Appeal Board**

Formal complaints are submitted for study to the Appeal Board\*\*. All complaints must be processed and decided on. The two (2) forms, which are entitled “Meeting with the Plaintiff” and “Filing of a Complaint” must be filed with the concerned Appeal Board.

The Appeal Board decision, accompanied by comments, is transmitted in writing to the Band Council members during a work meeting, within twenty (20) working days following the reception of the complaint. The decision rendered by the Appeal Board is irrevocable and effective. This decision is ratified by a Band Council resolution. A photocopy of the resolution is sent to the plaintiff by registered mail as soon as possible following the Band Council meeting.

The abovementioned time periods must be respected by the two (2) parties. A non-respected time period on the part of the plaintiff results in the closing of his file. On the other hand, a non-respected time period on the part of the Appeal Board gives judgement in favour of the plaintiff.

### Main Duties of the Appeal Board

- The Appeal Board must be aware of the “Complaints Policy” and the present policy in the sector targeted by the complaint.
- The Appeal Board must determine if the policy was enforced in compliance with the clauses comprising it.
- In the event that the Appeal Board rules that the present policy was not respected, the Appeal Board overturns the decision rendered. In the opposite case, the Appeal Board confirms the decision. All decisions are irrevocable and effective.
- The Appeal Board transmits its decision in writing, with comments, to the Band Council at the next meeting.

\*\* Appeal Boards are officially mandated by the Band Council. Each Appeal Board is made up of three (3) people for the purpose of facilitating the decision-making in a voting situation. The Appeal Board members must be unfamiliar with the management of the Odanak Band Council in order to be as impartial as possible in the analysis of the submitted complaints. In addition, the Appeal Board members must possess a good knowledge of the policy adopted by the Band Council and demonstrate exemplary skill in analysis and impartiality.

*Appendix 1 Form for the Filing of a  
Formal Complaint*

Odanak Band Council  
COMPLAINTS POLICY

- Filing a Complaint -

**1. SECTOR TARGETED BY THE COMPLAINT**

- |                        |                          |
|------------------------|--------------------------|
| Education              | <input type="checkbox"/> |
| Income security        | <input type="checkbox"/> |
| Housing                | <input type="checkbox"/> |
| Economic development   | <input type="checkbox"/> |
| Other sector, specify: | <input type="checkbox"/> |

**2. IDENTIFICATION OF THE PLAINTIFF**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

**3. I AM FILING A COMPLAINT TO THE BAND COUNCIL FOR THE FOLLOWING REASON:**


**4. I CONSIDER THAT THE DECISION RENDERED BY THE BAND COUNCIL DOES NOT RESPECT THE PRESENT POLICY FOR THE FOLLOWING REASON:**


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Signature of the plaintiff

Date

*Appendix 2 Annual Declaration Form*

**Odanak Band Council**  
**Code of Conduct and Complaints Policy**  
**Annual Declaration**

Please confirm your reception and reading of the lecture of the Code of Conduct and Complaints Policy by signing and returning the present sheet to the Director General in order for it to be conserved in your personal file.

Certain infractions in this document can have serious or long-term consequences on the image and funds of the Odanak Band Council. When justified by the circumstances, the Band Council can sue or dismiss the persons concerned.

I, *(name in block letters)* \_\_\_\_\_,

recognize that I am aware of the present document.

Whenever I am uncertain about the eventual enforcement of the Code of Conduct and Complaints Policy, I must inform my immediate superior about it.

My signature also confirms my awareness of the Staff Management Policy and the disciplinary measures provided in the event of misconduct.

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Signature

Date