

**WE WAI KAI FIRST NATION  
CONFLICT OF INTEREST POLICY**

February 2, 2001

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## **INTRODUCTION**

1. The membership of We Wai Kai First Nation elects a Chief and Councillors to act on behalf of We Wai Kai First Nation and to act as the community government for We Wai Kai First Nation.
2. The membership of We Wai Kai First Nation will, under the We Wai Kai Election Code, elect a Council of Elders to consider appeals in relation to the Electors' List, appeals in elections, and to determine proceedings to remove a member of Council.
3. The Chief, Councillors and Council of Elder members are chosen to serve the interests of We Wai Kai First Nation honestly, impartially, in good faith and to the best of their ability.
4. In fulfillment of their responsibilities, members of Council and the Council of Elders shall arrange their affairs and conduct themselves in a manner so as to avoid a conflict of interest or the appearance of a conflict of interest.
5. Members of Council and the Council of Elders shall be bound by this Conflict of Interest Policy.

## **DEFINITIONS**

6. A conflict of interest arises in any situation where an individual or a member of their immediate family has a personal or business interest in a transaction or matter under consideration by Council or the Council of Elders.
7. For the purposes of this Policy:
  - a. Immediate family includes: spouse, parent or parent-in-law, grandparent, brother, sister, child (including adopted children or those living with you as your child), grandchild or any spouse of an immediate family member.
  - b. Any reference to spouse includes a common-law spouse.
  - c. "Business interest" means ownership or partial ownership of a business, shares of a corporation, or other financial involvement, including any financial obligation from, or financial obligation to, any individual, business or corporation.

## **GENERAL DUTIES**

8.
  - a. Members of Council and members of the Council of Elders must not be involved in any transaction or matter where they are in a conflict of interest or appear to be in a conflict of interest.
  - b. A transaction which may give rise to a conflict of interest or the appearance of a conflict of interest may be approved by Council Resolution in accordance with section 14 or section 16 of this Policy.
9. Where the only benefit derived by an individual family member is as an employee of a person or business entering into a transaction with Council or having a matter determined by Council or the Council of Elders, no conflict of interest arises.
10. Where the only interest of a person is as the beneficiary or shareholder of a corporation, society or other entity owned or controlled by We Wai Kai First Nation entering into a transaction with Council or having a matter determined by Council, no conflict of interest arises.
11. The following transactions will not give rise to a conflict of interest or the appearance of a conflict of interest:
  - a. a member of Council guarantees repayment of, or otherwise assumes liability, to repay a loan made to Council or We Wai Kai First Nation; and
  - b. the Council agrees to indemnify or reimburse the member of Council or the Council of Elders member for expenses or liabilities incurred by reason of being a member of Council or of the Council of Elders, or arranges for insurance for those persons against risks undertaken in the carrying out of their responsibilities.

## **PROCEDURE WHERE THERE IS A CONFLICT OF INTEREST**

12.
  - a. An individual who has a conflict of interest must disclose the nature and extent of the conflict at their Council meeting or their Council of Elders meeting. The disclosure must be made when the conflict first becomes known to the individual, whether or not the transaction or matter in question has already been concluded.
  - b. Where a Council of Elders member has a conflict of interest in a transaction with, or matter to be determined by, Council, they must also disclose the nature and extent of the conflict in the same manner described in subsection (a).

- c. If an individual is in doubt whether or not they are in a conflict of interest, they may request the advice of Council.
- 13. After declaring the conflict of interest, the Council or Council of Elders member in question shall leave the meeting where the matter is being considered and shall not be counted in the quorum nor participate in the discussion or vote on the matter in question.
- 14.
  - a. Where Council is considering a transaction which may give rise to a conflict of interest or the appearance of a conflict of interest described in this Policy, it may only agree to the transaction where:
    - i. the member of Council or Council of Elders member involved has complied with sections 12 and 13 of this Policy;
    - ii. the transaction is fair and reasonable;
    - iii. a quorum of Council is present for the decision; and
    - iv. a Resolution is passed, agreeing to or authorizing a transaction by a majority of those on Council present and entitled to vote at the meeting.
  - b. A failure of a member of Council or Council of Elders member to provide Council with enough information to assess the nature of an interest involved in the transaction, invalidates any authorization given under this section.
  - c. Any Resolution authorizing a transaction under this section may make the authorization conditional upon the affected member of Council or Council of Elders member, taking steps or observing procedures that may be necessary to protect the interests of Council or We Wai Kai First Nation, or to safeguard the community's trust in the conduct of the activities of Council or the Council of Elders.
- 15. Where no quorum of Council or the Council of Elders can be established at the meeting where the conflict of interest was declared, the matter shall be brought before the next Council or Council of Elders meeting for consideration.
- 16.
  - a. If a quorum of Council or the Council of Elders can never be established because of conflicts of interest, the matter shall be brought before a general meeting of community members called to consider the transaction or matter in question.

- b. At the general meeting, the members of Council or the Council of Elders affected shall disclose the circumstances preventing them from participating in the decision before Council or the Council of Elders.
- c. There shall be a discussion of the transaction or decision to be taken at the meeting, and the eligible voters present shall decide the matter.
- d. The decision at the general meeting shall be reported in the minutes, and a Resolution of Council or a decision of the Council of Elders shall be recorded and have the same effect as a decision where no conflict of interest had existed.

### **USING COUNCIL PROPERTY AND COUNCIL INFORMATION**

- 17. A member of Council or a member of the Council of Elders may not use property owned by Council for personal purposes and may not purchase property owned by Council, unless it is through the usual channels for sale of property which is equally available to all community members and the transaction is approved in accordance with section 14 or section 16 of this Policy.
- 18. A member of Council or a member of the Council of Elders may not take personal advantage of an opportunity available to Council, unless it is clear that Council has decided against pursuing the opportunity and the opportunity is equally available to all community members.
- 19. A member of Council or a member of the Council of Elders may not use their position to solicit clients for a personal business or one operated by an immediate family member. This duty does not prevent a person or their immediate family members from transacting business with others who do business with Council, provided that there is compliance with this Policy.

### **GIFTS**

- 20.
  - a. A member of Council or a member of the Council of Elders shall not accept gifts, hospitality or other benefit from a person where the acceptance could be construed by an impartial observer as an illegal payment, bribe or attempt to influence the Council member or Council of Elders member and the transaction is approved in accordance with section 14 or section 16 of this Policy.
  - b. A member of Council or a member of the Council of Elders may accept a gift in the normal exchange of hospitality, where the exchange is lawful.

21. This Policy should not be used nor interpreted to restrict appropriate gift giving or receiving customs or traditions, or to prevent due recognition by way of a gift to a member of Council or a member of the Council of Elders in recognition of their service to the community or to aboriginal causes or institutions.

#### **AMENDMENT**

22. This Policy may be amended by a duly passed Resolution of Council and amendments shall be effective as of the date of such Resolution.

#### **EFFECTIVE DATE**

23. This Policy becomes effective on the date it is accepted by a duly passed Resolution of Council.