



Micmacs of Gesgapegiag Band

Complaint and Appeal Policy

Final version

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Micmacs of Gesgapegiag Band
Complaint and Appeal Policy
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Micmacs of Gesgapegiag Complaint and Appeal Policy

1. Preamble:

The Micmacs of Gesgapegiag Band is responsible for the delivery and management of programs and services intended for the members of the Band and the community. While respecting its financial limitations, the Band administration strives to provide quality services and programs, and to ensure fairness and equity in dealings with Band members.

In adopting the present policy, the Band administration wishes to demonstrate its respect for a fundamental principle of democracy: permitting an individual to freely express his or her opinion, and make a complaint when a public administrative decision is not perceived as being fair and equitable. This policy will serve as a tool available to registered members of the Band and residents of the reserve who are eligible to receive services from the Band, to enable them to question decisions relating to services without negative repercussions when they feel their rights have been infringed upon.

A complaint is " **an expression of dissatisfaction with a service, a response, or a decision**". As such, no subjects are considered taboo when a client wishes to raise an issue through a formal complaint and appeal process.

This policy will help clarify the decision-making process and make the management style of the Band administration more transparent to the Band membership and the community. As well, it provides a useful tool to help improve services and service delivery. Perhaps the most important aspect of the complaint and appeal process is the fact that it provides the Band administration with the ability to identify weaknesses, errors or oversights and find solutions that result in better performance.

An Appeal Officer will be identified from within the Band personnel to help Band members formulate a complaint or appeal, and the Council will name two Band members to an Appeal Committee. The third member of the committee will vary according to the type of complaint received, and will be named by the Director of Operations.

This policy outlines the objectives of the complaint and appeal policy, to whom it applies, the steps to be taken when a complaint is made, and its promotion within the community.

2. Objectives of the Complaint and Appeal Policy:

The present policy is intended to explain the process to be used to deal with complaints of registered members of the Band and residents of the reserve who are eligible to receive services from the Band. By adopting it, the Micmacs of Gesgapegiag Band Council has the following objectives:

- 2.1 To ensure fairness, equity, and transparency in the administration of the Band's business;
- 2.2 To enable registered members of the Band and residents of the reserve who are eligible to receive services from the Band to avail themselves of a complaint process when they believe they are the victim of an error, negligence or an abuse related to a decision concerning them individually, and to obtain corrective action if the complaint is founded;
- 2.3 To identify actions to improve services and the delivery of services, taking into account the availability of funds.

3. Application:

The present policy applies to all policies, services and programs adopted or administered by the Micmacs of Gesgapegiag Band, which directly impact registered members of the Band and residents of the reserve who are eligible to receive services from the Band.

This includes Gesgapegiag Health and Community Services, Policing and Public Security, Education, Housing, Social Assistance, Band Administration and Finance, Economic Development, Public Works, Forestry and Fishing Programs, and services offered by the Gesgapegiag Community Development Commission.

The present policy does **NOT** apply to administrative procedures affecting Band personnel, as there are other policies and procedures in place to deal with such issues.

4. Processing a complaint:

In order to ensure effective use of time and resources, there will be a number of steps to be taken before an appeal can be launched.

4.1 Step 1:

At the first stage of a complaint, the client and / or his / her advocate must review in detail the policy(ies) relating to the event in question to ensure that there may be cause for complaint.

4.2 Step 2:

The client and / or his / her advocate must raise the issue with the manager / director of the program in question, or his / her immediate supervisor. The reason for this approach is to ensure complaints are dealt with and that a solution is found as quickly as possible to reduce time and costs for all concerned. The complaint will be discussed in detail with the employee(s) involved, and a solution recommended by the manager. If the solution recommended by the manager is still not satisfactory to the client, then a third step must be taken.

4.3 Step 3:

The manager and I or the complainant will bring the issue to the attention of the Director of Operations for resolution. The Director of Operations will appoint a committee of three managers to review the details and propose a solution. After having consulted fully with staff members involved or affected by the complaint, the manager whose program is the subject of the complaint will present his / her facts to the management committee. He / she will then leave the meeting while the management committee studies the complaint and renders a decision. If the solution recommended by the managers is still not satisfactory to the client, then the appeal process can begin.

The client has **ninety (90) days** following the event to make an official appeal.

However, the Appeal Committee **may allow a client** to use the appeal procedure within a period of six months from the event if the client shows that in fact it was **impossible to act sooner**.

5. Role of the Appeals Officer:

In order to deal with appeals without delay and to implement the corrective action as quickly as possible, the Micmacs of Gesgapegiag Band shall appoint an Appeals Officer who will be responsible for receiving appeal forms, noting and registering them, and acknowledging receipt of the appeal.

The Appeals Officer will **NOT** accept an appeal unless the first three steps outlined above have *been* followed.

The Appeals Officer will serve as coordinator for the Appeal Committee, organizing meetings and logistics, and setting up interviews, taking minutes, and keeping *records* of decisions made. In *the* event of a change in policy recommended by the Appeal Committee, he / she is responsible for ensuring that recommendations from the Committee are forwarded to the manager of the program targeted in the complaint. The manager will ensure that all staff

members involved or affected by the policy change are well informed. Council members will also be informed for information purposes.

6. Filing an appeal:

A client who wants to make an appeal should contact the Appeals Officer, and fill out the required forms. He / she will be given a document outlining the procedures (see Appendix 1) and a form to fill out, including details of the event in question (see Appendix 2). To make the system as user-friendly as possible, the Appeals Officer should help the client fill out the form and gather the information required. This can be done by telephone should the client be outside the community.

Within ten (10) working days of the receipt of the appeal, the Appeals Officer will acknowledge receipt of the complaint by sending a letter to the client, and will organize a meeting of the Appeal Committee members.

7. The Appeal Committee:

Every year, the Micmacs of Gesgapegiag Band Council shall appoint two individuals to the Appeal Committee. These two will be Band members, autonomous from the Council and the Band personnel. A third person from outside the Band membership who has expertise in the field concerned will be invited to participate by the Director of Operations. **There must always be three people to hear an appeal.**

To ensure the highest level of impartiality possible, none of the Appeal Committee members should be associated with or related to the members of the Band Council administration, or members of the **Band** Council. This means immediate family members, employee/employer relationships, and business partners. Council will review the composition and mandate of the Appeal Committee annually.

The members of the Appeal Committee should have a thorough knowledge of the policies adopted by Council and they must have demonstrated analytical skills. They should also be role models of impartiality and discretion in the community. The committee members **will** have access to **all** the necessary information to deal conscientiously and thoroughly with the complaint. Employees, administrators, managers and other resource persons are expected, as part of their duties, to fully cooperate with the Committee members.

8. The work of the Appeal Committee:

When notified of an appeal, the Appeal Committee shall meet as soon as possible to first determine if the appeal is receivable or not. The Appeals Officer must confirm to the Appeal Committee that the first three steps in the process have been followed. The committee must then decide if the appeal is related to matters within the Band's jurisdiction. In the case of appeals concerning Council elections, Band membership, or matters outside the Band's jurisdiction, the committee will refer the client to the competent authorities.

If the appeal is receivable, the Appeal Committee will begin gathering the relevant information and facts, and meeting the parties involved. They will be expected to render a decision in writing **no later than thirty (30) days** after the official reception of the complaint. Should it be impossible for them to do so within this deadline, they must inform the client in writing of the length of the delay and the reason for it.

All appeals must be reviewed by the Appeal Committee and require a decision from the committee. The Appeal Committee must hear the version of the Band or community member filing the complaint, and the version of the employee or manager concerned by the complaint before discussing the details of the appeal and making a decision.

Appeal Committee *members*, the Appeals Officer and any employees involved *in* the appeal process must keep confidential any personal and private information shared with them in the processing of an appeal. All will be asked to sign Oaths of Confidentiality before being included in the process.

The decisions of the Appeal Committee are final and binding on all parties concerned.

9. Recommendations:

Should the Appeal Committee find a complaint is founded, the remedy they suggest for the complainant should be offered to future clients in the same situation. However, such decisions shall not be applied retroactively.

In an effort to help the Micmacs of Gesgapegiag Band improve their services to the community, the Appeal Committee may make recommendations to the Council for changes to policy. A space for recommendations is included in the appeal form (see Appendix 2). Such a recommendation can serve to ensure that the problem does not recur.

The Appeals Officer shall submit these recommendations to the Chief and Council for their consideration as soon as possible. The Council has the authority

to adopt or reject the recommendation. **It should be noted here that only the Council, as the elected body, has the authority to create and modify policies for the Band.** Any such policy changes do not come into effect until after being sanctioned by Council.

10. Communication to employees, Band members, and the community:

To be well accepted, the benefits and advantages of the Complaint and Appeal Policy must be well understood by both Band members and the staff members of the Band. A good promotional campaign is therefore an essential element to a successful complaint and appeal process. A pamphlet promoting the complaint and appeal process will be produced and sent out to Band members, as well as being prominently displayed in the public areas of the Band Council buildings. Employees will receive training in dealing with complaints, and will be encouraged to promote the complaint and appeal procedure to Band members who express dissatisfaction with the services they receive.

11. Policy implementation and review:

This policy will come into effect on February 1, 2005. The Band Council will review this policy annually with the objective of making any necessary modifications. The community will be informed of any such changes in a timely manner.

Appendix I

Micmacs of Gesgapegiag Band Appeal procedure

Procedure to be followed in the case of an appeal at the Micmacs of Gesgapegiag Band:

1. Appeal form:

A client who wishes to appeal a decision of any department of the Micmacs of Gesgapegiag Band must be a registered Band member, or a resident of the reserve eligible for services from the Band. The client must fill out an appeal form, which he/she can obtain from the Appeals Officer. The client may request the assistance of the Appeals Officer to fill out the form or prepare the appeal in any way (e.g. photocopy documents, obtain copies of policies, etc)

Please note that an appeal cannot be processed if the following three steps have not been followed:

Step 1:

At the first stage of a complaint, the client and I or his / her advocate must review in detail the policy(ies) relating to the event in question to ensure that there *is* cause for complaint.

Step 2:

The client and / or his / her advocate must raise the issue with the manager / director of the program in question, or his / her immediate supervisor. The reason for this approach is to ensure complaints are dealt with and that a solution is found as quickly as possible to reduce time and costs for all concerned. If the solution recommended by the manager is still not satisfactory to the client, then a third step must be taken.

Step 3:

The manager and / or the complainant will bring the issue to the attention of the Director of Operations for resolution. The Director of Operations will appoint a committee of three managers to review the details and propose a solution. The manager whose program is the subject of the complaint will present his / her facts to the management committee, but will then leave the meeting while the management committee studies the complaint and renders a decision. If the solution recommended by the managers is still not satisfactory to the client, then the appeal process can begin.

2. Deadline:

The appeal form, duly completed and signed, must be submitted to the Appeals Officer within **ninety (90) working days** following the event complained about. However, **the** Appeal Committee may hear an appeal after this delay given mitigating circumstances (please see policy document).

3. Reception:

Once the completed appeal form has been received, the Appeals Officer will stamp the date on it. **He / she** will prepare a letter to the client to confirm its reception, and will notify the Appeal Committee within ten (10) working days of receiving the appeal.

4. Committee procedures:

The first step of the Appeal Committee will be to verify if the appeal is receivable. An appeal citing any of the following is **NOT** deemed receivable. **The client will be notified immediately, and will be referred, if possible, to the proper authorities:**

- > Band Council election issues (refer to Department of Indian Affairs)
- > Band membership issues (refer to Department of Indian Affairs)
- > *Issues* not related to programs under the authority of the Micmacs of Gesgapegiag Band (refer to Quebec Ombudsman, **etc**)

If the appeal is deemed receivable, the Appeals Officer will inform the Director of Operations what kind of outside expertise is necessary in order to deal with the complaint, and the Director of Operations will take steps to find such expertise.

The Appeal Committee will meet as soon as possible to analyze the appeal, and has full authority to review all elements relating to the appeal. **The committee** must interview the client making the appeal, employees of the program concerned, and any other persons they believe might be able to provide details on the circumstances. They may request further information or documentation from the client or the Band administration.

5. Decision:

The Appeal Committee will make a decision on the appeal **no less than thirty (30) working days after the date stamped on the completed appeal form**, and will prepare a written report for the client. Copies of the report will be forwarded to the director/ manager of the program in question, and the Chief and Council. Any delay in communicating a decision must be justified in writing to the complainant.

All decisions of the Appeal Committee are final.

Appendix II

Micmacs of Gesgapegiag Band

Appeal form

In accordance with the Complaint and Appeal Policy adopted by the Micmacs of Gesgapegiag Band, a client who believes he / she has been the victim of an error, negligence or an abuse may file an appeal. Clients must be registered Band members, or residents of the reserve who are eligible for services from the Band.

Instructions:

If you wish to appeal a decision of the Micmacs of Gesgapegiag Band, **please fill in sections 1, 2 and 3 of this form** and submit it to the Appeals Officer **within ninety (90) working days** of the event in question. The Appeals Officer can assist you in filling out this form and in copying documents or finding policies required.

If the space provided on this form is insufficient, you may attach additional pages. Please submit all relevant documents along with this form, such as correspondence, copies of policies, etc.

Section 1: Identification:

Name of client: _____

Band number: _____

Postal address:

Telephone number: _____

Section 2: Identification of issue appealed:

Name of program or service involved:

Date of the event: _____

Description of the event:

Section 3: Nature of the appeal:

Reasons for the appeal:

Additional information the Appeal Committee should consider:

Signature of client: _____

11 _____

Sections 4 to 8 are for Appeal Committee use only.

4. Reception of the appeal:

Date of reception of completed form: _____

Deadline date for final decision: (30 working days) _____

Signature of Appeals Officer:

5. Appeal Committee:

Composition of the Committee **(There must always be three committee members):**

6. Receivability of appeal:

This appeal is receivable:

- Yes
- No

This appeal is **NOT** receivable because (check one):

- Elections issue
- Membership issue
- Not under Band Council authority
- Other: _____

Referral if appeal is not receivable:

7. Actions of the committee:

(Dates of meetings, interviews, document review, etc)

Decision of the Appeals Committee:

- Appeal granted
- Appeal denied

Reasons for decision:

Date of decision: _____

Signature of Appeal Committee members:

8. Recommendations to Council:
