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Policy Brief

Clarifying Roles of Aboriginal Leaders and their Staff: The Perils of a Portfolio System

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*by
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Policy Brief No. 27: Clarifying Roles of Aboriginal Leaders and their Staff: A Model Governance Policy, by John Graham (January 2007)

Managing the Relationship of First Nation Political Leaders and their Staff, by John Graham (March 2006)

Policy Brief No. 22: Accountability in a Federal State: How Canada Stacks Up, by John Graham and Gina Delph (December 2006)

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Policy Brief No. 22: The Task Ahead: Advancing First Nations Forest Sector Participation, by Jake Wilson and John Graham (April 2005)

Policy Brief No. 21: Towards Sound Government-to-Government Relationships with First Nations, by John Graham and Jake Wilson (October 2004)

Purpose

This brief is a companion to Policy Brief No. 27. Recalling the central theme of the earlier brief—which stated that Council and staff should operate as partners with distinct but overlapping roles—this brief pursues the theme further, into implementing such a partnership. It examines the popular portfolio system, suggesting that this system makes the realization of a partnership between Aboriginal leaders and staff very difficult indeed. After presenting four potential perils of the portfolio system, the brief offers four options Aboriginal communities or organizations might consider in addressing and ultimately mitigating the problems posed by the system.¹

The Portfolio System and its Popularity

In a portfolio system, each Council member is assigned responsibility for one or more program areas—for example, for housing, education, social assistance, or child-care. Each Councillor thus assumes a “portfolio” in addition to his or her regular duties on Council. This role mimics that of a Minister in the federal or provincial government.

Why is the portfolio system so popular? In sharp contrast to local governments in small, non-Aboriginal communities, the position of Councillor is a full-time job in many Aboriginal communities. This occurs for various reasons: scarcity of jobs outside the public sector; lack of capacity within the community; citizen expectations that their representatives should be available at all times; long-term exposure to federal government politicians; to name only a few. By assigning a wide swath of challenging program responsibilities to each Council member, the portfolio system offers a good way to justify a full-time position.

¹ The judgements in this policy brief are based on the author’s personal experience in working for a wide variety of Aboriginal organizations over the past ten and a half years.

Potential Perils to Good Governance

In earlier publications² the Institute on Governance has argued that there are five universal principles of good governance: legitimacy and voice, accountability, fairness, performance and direction. The portfolio system, despite its appeal, can jeopardize good governance by creating at least four problems:

- 1.** The portfolio system often leaves program managers in a difficult position. When a Councillor is responsible for a program, this can easily translate in his or her mind into being “in charge.” In other words, the program manager takes direction from the Councillor, even though the organization chart shows the program manager reporting to the Council’s band manager or administrator. The Councillor becomes in effect the program manager, leaving the nominal program manager disempowered and discouraged. The sad result is a high turnover in the program manager position.
- 2.** A second peril involves the administrator’s role. He or she is in a poor position to lead the First Nation staff once Councillors—who are the administrator’s boss—have assumed the role of program managers. Under these circumstances, able administrators do not remain in their positions very long either. “Locking horns” with one or more councillors becomes almost inevitable.
- 3.** With the administration weakened, there is a greater danger that program delivery will be politicized. Instead of administrators relying on program policies to decide who gets what, partisan politics will increasingly be the dominant player.

² See, for example, John Graham, Bruce Amos and Tim Plumptre, “Principles for Good Governance in the 21st Century: Policy Brief No. 15”, www.iog.ca/publications.

4. The fourth peril involves a fundamental change to the nature of Council. Recall that Council is supposed to act collectively. Council alone—not its individual members—holds the authority to make important decisions affecting community well-being. This bedrock principle of the council type of government is frequently shattered in a portfolio system. Portfolios typically drive the way individual councillors spend their time and are perceived by their community. Yet this means that Council as a whole is hard-pressed to spend the time it needs to meet its collective responsibilities.

A Downward Spiral

These four tendencies, depending on how they play out in a community, can result in a downward spiral towards poorer and poorer governance. The mechanism works as follows: a large turnover in key staff positions reduces the quality of program delivery. Poor program delivery, often based on partisan grounds—rewarding political allies and punishing political foes—results in dissatisfied community members. These then vent their displeasure with Council at the next election. Newly elected (and likely inexperienced) Councillors now lead a junior and inexperienced staff—a situation that further worsens program quality. And on it goes.

Left unchecked, the portfolio system has great potential to disrupt all the fundamental principles of good governance. By altering the collective nature of Council, it threatens *legitimacy*. By undermining administrative staff and inviting political favouritism in program delivery, it jeopardizes *fairness*. The system harms the principle of *accountability* by blurring the roles of leaders and staff. Finally, its tendency to produce a rapid turnover of both staff and Council has a negative effect on *performance* and *direction*.

Reversing the Spiral: Options for Better Governance

Mindful of the differing requirements of size, cultural values and existing political realities, we examine four options that Aboriginal organizations and governments might use to mitigate the effects of the portfolio system. As Figure 1 describes these options at greater length, we list them only briefly here:

1. Scrap the portfolio system.
2. Assign portfolios, but not for programs run by staff.
3. Assign portfolios, but make it clear that portfolio holders do not direct staff.
4. Have the portfolio holder formally assume the program manager role.

Because Option 3 is the least radical, it will likely be the choice of many communities. We have therefore adapted the model governance policy presented in Policy Brief 27 to accommodate an Option 3 style portfolio system. Presented in Figure 2, the new model policy precisely describes the Council member's role as portfolio holder—thereby further clarifying the critically important relationship between Aboriginal leaders and their staff.. For illustrative purposes, the by-law is set in a First Nation context.

CONCLUSIONS: There are many understandable reasons why Aboriginal communities prefer a portfolio system. Yet that system comes with a host of potential problems, to the extent that an effective partnership between political leaders and staff occurs only rarely within it. Because a portfolio system imperils all principles of good governance, no option that retains it will eliminate the problems it creates.

Only determined hard work and a high level of sophistication can reverse the tendencies of the portfolio system to the extent that it could work as a means to good governance.

Figure 1 **Options for Better Governance**

OPTION 1: Scrap the portfolio system

- All staff reports to First Nation administrator.
- A clear system exists for handling member complaints.
- Councillors spend more time on developing and approving policy, monitoring program performance, ensuring the complaints system works properly and considering broader strategic issues facing the Nation.
- Councillors work only part time
- **ADVANTAGES:** Upholds the bedrock principle assigning Council collective responsibility; also maintains the “proper” partnership model of separation and sharing outlined in Policy Brief 27.
- **DISADVANTAGES:** Sitting on Council becomes less attractive – part time work only

OPTION 2: Assign portfolios, but not for staff-run programs

- Councillors receive portfolios, but these do not include programs run by staff.
- Portfolios include problem areas that may not be receiving enough attention—developing new membership rules or investigating a new potential economic opportunity, for example.
- **ADVANTAGES:** By maintaining the portfolio system, presents a less radical adjustment than Option 1. By reorienting portfolios away from the staff, reduces Councillors’ temptation to manage programs themselves.
- **DISADVANTAGES:** Council is less well-informed of program issues.

OPTION 3: Assign portfolios for staff programs, but make it clear that portfolio holders do not direct staff

- One possibility: to form program committees chaired by the portfolio holder. The program manager, other First Nation members and (possibly) program experts from outside the community could be members. The First Nation administrator might also sit on committee.
- Council as a whole establishes the committee mandate, which would be advisory in nature - developing new policies, monitoring program progress and identifying best practices elsewhere.
- **ADVANTAGES:** Surrounding portfolio holders with other committee members and presenting them with a more clearly defined advisory mandate restrains them from directing program staff.
- **DISADVANTAGES:** For small First Nations, this option might present capacity issues

OPTION 4: Have portfolio holder formally assume the program manager role

- Do away with a First Nation administrator.
- Have Council members administer portfolio programs directly.
- **ADVANTAGE:** Possibly the only viable approach for a very small First Nation. In a relatively stable community with a relatively stable council, it might work.
- **DISADVANTAGES:** Like Option 1, also a radical solution—but with high governance risks. By politicizing the delivery of public services, political favouritism would predominate. A rapid turnover of Council members would devastate the quality of program delivery. Last, this model violates the bedrock principle of Council acting only collectively.

Figure 2

Model Governance Policy

ROLES AND RESPONSIBILITIES COUNCIL & STAFF

1. OBJECTIVE

The objective of this policy is to ensure that roles and responsibilities of the Chief, Council and staff, particularly the First Nation Administrator, are as clear as possible so as to promote good governance in the conduct of the First Nation's affairs. Additional policies, especially those related to programs and administrative matters, will provide further clarification of these roles.

2. DEFINITIONS

Council refers to the Chief and Councillors of the First Nation.

Staff refers to the staff of the First Nation.

Administrator refers to the Band Manager or Band Administrator of the First Nation.

Citizens refers to all citizens including Councillors, Board members and staff, who are members of the First Nation.

3. POLICY STATEMENT

3.1 Council and the Administrator will endeavour to operate as a partnership, recognizing their distinct but overlapping roles. Like all important partnerships, this one will require continued efforts by both parties to discuss problems and make adjustments. Consequently, the partnership will not remain static but will evolve as circumstances and personalities change.

3.2 Council acts as a collectivity; no member of Council, including the Chief, can make an important decision affecting the well-being of the First Nation acting as an individual unless otherwise authorized by Council. Furthermore, no member of Council can direct a member of staff, including the Administrator, unless authorized by Council. A member of Council can ask a staff member to provide information or perform a simple service on a matter affecting the First Nation. Should such a request entail a significant time commitment, this should be done through the Administrator. However, it is understood that in times of emergency, when it is not possible to secure a quorum of Council to address a situation, the Chief and/or Councillor(s) present are mandated to act in the interests of the First Nation and its members.

3.3 Council has decided to establish a portfolio system whereby an individual member of Council will have specific responsibilities in a specified area of Council's jurisdiction. The principal role of portfolio holders is to provide advice to Council. They as individuals will not direct staff unless expressly authorized by Council.

3.4 For each portfolio, Council will establish an advisory committee, chaired by the portfolio holder. Council will determine its mandate, membership and staff resources required to carry out its functions. The Administrator will be an ex-officio member of these committees.

3.5 Council may decide to establish other committees in the form of boards, authorities or other bodies of Council. In doing so, Council will establish written mandates and time frames for their existence. These committees will be advisory in nature unless specifically directed by Council.

3.6 For further clarity, all staff report through the First Nation Administrator to Council.

4. ROLES & RESPONSIBILITIES

4.1 Council's responsibilities include approving:

- All mission statements and strategic plans
- Accountability measures directed at citizens and funding agencies
- Yearly and multi-year budgets and any major adjustments
- New program initiatives
- All funding agreements
- All contracts over a certain amount as specified in the financial management policy
- All policies
- The establishment of complaints and redress procedures
- All significant organization changes
- The hiring and evaluation of the Administrator
- The hiring of all staff reporting directly to the Administrator on the recommendation of the Administrator
- The conduct of relationships with external organizations
- Responsibilities assigned to portfolio holders

4.2 Council will monitor and take corrective action, when appropriate, on:

- The implementation of policies, plans and programs
- Budget variances
- Major contracts and funding agreements
- Major capital expenditures

4.3 The Chief, in addition to being a member of Council, will be responsible for:

- Acting as the official spokesperson of the First Nation
- Chairing council meetings
- Managing external relations subject to any policies or directives issued by Council
- Managing Council business by ensuring a meeting schedule is in place; calling emergency meetings; assisting individual councillors; helping Council be an effective team; ensuring meeting rules are established and followed; and ensuring Council focuses on the longer term needs of the First Nation

4.4	<p>A member of Council, as a portfolio holder, will be responsible for:</p> <ul style="list-style-type: none"> ▪ Bringing to the attention of Council any significant issues requiring attention within his or her portfolio and, where appropriate, suggesting options or specific solutions for their resolution ▪ Recommending to Council new or modified policies, and strategic or yearly plans relevant to his or her portfolio ▪ Chairing advisory committees relevant to his or her portfolio ▪ Monitoring budgets and related expenditures relevant to his or her portfolio
4.5	<p>First Nation Administrator will assist Council in executing its responsibilities in 4.1 and 4.2 and the Chief's responsibilities under 4.3, and the responsibilities of portfolio holders in 4.4. In addition First Nation Administrator will be responsible for:</p> <ul style="list-style-type: none"> ▪ Implementing policies, programs and plans ▪ Recommending to Council the appointment of staff who report to the Administrator ▪ Appointing other First Nation staff ▪ Managing the First Nation staff
5.	PROCESS FOR ADDRESSING COMPLAINTS
5.1	<p>Any citizen of the First Nation who believes that Council or staff are not following this policy can direct his or her concerns to the First Nation Administrator in writing or recorded at the Administration office. The First Nation Administrator will respond to the complainant within 30 days.</p>
5.2	<p>If the citizen is still not satisfied following the response of the First Nation Administrator, he or she may direct his or her concerns in writing or recorded at the Administration office to the Chief and Council, who will respond within 30 days.</p>
6.	COMMUNICATING THIS POLICY
6.1	<p>Like all First Nation policies this policy will be available in a manual for review by any First Nation citizen in the Office of the First Nation during business hours. All policies will also be posted on the section of the First Nation web site with limited access to First Nation citizens.</p>
7.	REVIEW & EVALUATION OF THIS POLICY
7.1	<p>Chief and Council will review this policy within 5 years of its adoption and decide whether further evaluative work is necessary. A record of the review will be recorded in writing and attached to the policy.</p>
8.	DATE OF ENACTMENT AND SIGNATURES
<p>This policy was adopted by the Council at a duly constituted meeting on this ____ day of _____ 2007.</p>	
<p>Signed:</p>	
Chief and Councillors	Band Administrator