



# **WEST MOBERLY FIRST NATIONS**

## **APPEAL POLICY**

Adopted:	April 13, 2016
Amended:	March 26, 2024

**Objective:**

The objective of this policy is to provide resolution to Members, Community Members and Employees in a fair, timely and affordable manner without recourse to external legal procedures.

**Application and Scope:**

West Moberly First Nations band members, community members, regular and casual employees.

**Definitions:**

Appellant:	the party appealing a decision
Individual:	a WMFN band member, community member, regular or casual employee.
Days:	WMFN business days.
Support Person:	an individual chosen by the Appellant to accompany them to a Level 3 Appeal presentation with Council. This individual is present solely for the support of the Appellant and must abide by the restrictions described below.

**Policy:**

Any individual may appeal a decision that has affected them directly. Legal guardians may appeal a decision that directly affects a minor in their care.

As this is an internal review process of WMFN, no party may bring a lawyer to attend meetings that are held during any Level of appeal.

**Grounds for an Appeal:**

An individual may appeal a decision made under a WMFN policy when the appeal falls under one or more of the following categories:

- The policy was not applied which impacted the outcome of the decision being appealed.
- There was a lack of procedural fairness which impacted the decision being appealed (i.e. any procedural error, improper investigation, or discrimination).
- New information has come to light rendering the original decision unreasonable in light of the new information presented.
- The policy cannot be rationally supported or there is a defect in the policy which is immediate and obvious.

## **Procedure:**

### **Lodging an Appeal:**

To appeal a decision made under a WMFN policy an individual shall submit their appeal in writing to the Department Manager within 10 Days of having been advised of the decision by the department.

An individual wishing to initiate an appeal beyond the (10) ten Day period must provide a written request stating reasons for an exemption. The decision to allow, or not to allow an appeal beyond the (10) ten Day period will be at the sole discretion of Council and can not be appealed.

### **The appeal shall include:**

- a) The full name, address and contact information of the individual lodging the appeal.
- b) A description of the decision being appealed.
- c) A brief statement of the reason for the appeal including the grounds under which the individual is making the appeal.
- d) Any supporting documentation.
- e) The appeal shall be signed and dated by the individual.

### **Reviewing the Appeal:**

If the decision being appealed is one of the Director of Operations, the appeal shall start at Level 2.

If the decision being appealed is one of Council, the appeal shall start at Level 3.

#### Level 1 – Appeal reviewed by Department Manager

The Department Manager will review the appeal and provide the Appellant a written response to the appeal within (10) ten Days of receipt of the appeal. On completion of the review of the appeal, the Department Manager shall confirm in writing either:

- a) The decision being appealed has been revised; or
- b) The decision stands and the reasons for that outcome.

#### Level 2 – Appeal reviewed by Director of Operations

Where the Appellant does not agree with the decision of the Department Manager during Level 1 or where the decision being appealed is one of the Director of Operations, the Appellant may appeal to the Director of Operations. The Appellant must submit their Level 2 appeal in writing within (10) ten Days of receipt of the Department Managers decision on their Level 1 appeal or within (10) ten Days of the decision of the Director of Operations being appealed. If this is an appeal from Level 1, the Appellant must provide a copy of the original appeal and the Department Manager's response.

The Director of Operations will review the appeal and provide the Appellant a written response to the appeal within (10) ten Days of receipt of the appeal. On completion of the review of the appeal, the Director of Operations shall confirm in writing either:

- a) The decision being appealed has been revised; or
- b) The decision stands and the reasons for that outcome.

### Level 3 – Appeal reviewed by Council

Where the Appellant does not agree with the decision of the Director of Operations during Level 2 or where the decision being appealed is one of Council, the Appellant may appeal to Council. The Appellant must submit their Level 3 appeal in writing within (10) ten Days of receipt of the Director of Operations decision on their Level 2 appeal or within (10) ten Days of the decision of Council being appealed. If this is an appeal from Level 2, the Appellant must provide a copy of the original appeal and any lower level decisions.

The appeal shall be tabled at the next Council meeting. If Council is not meeting within 10 Days of receipt of the appeal, Council shall schedule a meeting to discuss.

At the request of Council, a verbal presentation may be made by the department and/or the Appellant. If Council requests a presentation from the department, the Appellant must be given notice and an opportunity to attend and present as well. If the Appellant attends, they are entitled to bring one (1) Support Person.

In considering the appeal, Council shall determine whether the decision-maker based their decision according to relevant policy, without bias or favoritism and without error in interpretation of the policy; whether new information warrants a different decision based on policy; and whether there is a defect in the applied policy that requires a policy amendment and subsequent review of the decision.

Council will review the appeal and provide the Appellant a written response to the appeal within (10) ten Days of receipt of the appeal. On completion of the review of the appeal, Council shall confirm in writing to the applicant whether:

- a) The decision being appealed has been revised; or
- b) The decision stands and the reasons for that outcome.

### ***The decision of Council is final.***

Where Council has confirmed that the decision being appealed has been revised and where the appeal is based on the grounds that the policy is

patently unreasonable, Council shall make amendments to the appropriate policy in the matter of the decision being appealed.

### **Presence of Support Person**

The Appellant has the right to bring one (1) Support Person to the Council meeting held during a Level 3 appeal.

The Support Person may sit alongside the Appellant to provide practical and emotional support during the process by helping to keep the requesting individual organized, calm and focused. Generally, a Support Person would be a trusted family member or friend.

A Support Person may:

- take notes;
- organize documents;
- make quiet suggestions to the individual they are supporting;
- provide emotional support;
- pay attention to the discussion.

A Support Person shall maintain in strict confidence all information they learn during the meeting.

A support person shall not address Council, or speak on behalf of the Appellant, except in exceptional circumstances and only with permission of Council.

A Support Person may be asked to leave if they do not follow this policy. If a Support Person is asked to leave for failure to follow this policy, the Appellant may ask for a break to speak to their Support Person outside the meeting.

An attendee of the meeting (including the chair) may challenge the Support Person's presence prior to or at the start of the meeting, on the grounds that:

1. the person is a lawyer, paralegal, or paid advocate;
2. the person is a witness or materially involved in the process; or
3. it would be or might feel unfair or unsafe to the individuals attending the meeting in question.

After hearing the rationale from the objecting party, a quorum of Council (excluding the objecting party, if a Councillor) shall make a decision whether to allow the Support Person to attend. If a Support Person is not allowed to attend, the Appellant may ask the meeting chair for a break to speak to their support person outside the meeting.

**REVIEWED & APPROVED**

This Appeal Policy has been reviewed and approved by a quorum of Council on April 13, 2016, coming into force on April 13, 2016:

Councillor: Clarence Willson

Councillor: Laura Webb

Councillor: Patricia Brown

Councillor: Dean Dokkie

This policy has been reviewed and amended by a quorum of Council:

Dates:

March 26, 2024