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Policy Brief

Clarifying Roles of Aboriginal Leaders and their Staff: A Model Governance Policy

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*by
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The Institute On Governance (IOG) is a Canadian, non-profit think tank founded in 1990 with the mission to improve governance for public benefit, both in Canada and abroad. We define governance as the process whereby power is exercised, decisions are made, citizens or stakeholders are given voice, and account is rendered on important issues..

We explore what good governance means in different contexts. We undertake policy-relevant research, and publish the results in policy briefs and research papers.

We help public organizations of all kinds, including governments, public agencies and corporations, the voluntary sector, and communities to improve their governance.

We bring people together in a variety of settings, events and professional development activities to promote learning and dialogue on governance issues.

The IOG's current interests include work related to Aboriginal governance; technology and governance; board governance; values, ethics and risk; building policy capacity; democratic reform and citizen engagement; voluntary sector governance; health and governance; accountability and performance measurement; and environmental governance.

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Most IOG publications and all our policy briefs are available on our website. Sample titles:

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)

Partnerships: Putting Good Governance Principles in Practice, by Laura Edgar, Claire Marshall and
Michael Bassett (August 2006)

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)

Policy Brief No. 15: Principles for Good Governance in the 21st Century, by John Graham, Bruce
Amos and Tim Plumptre (August 2003)

Purpose

This brief speaks to a crucial issue relevant to all Aboriginal governments and organizations: how to manage the relationship between political leaders and their staff. This issue is of course not unique to Aboriginal peoples. Indeed the recent Sponsorship Program, which has been the focus of the Gomery Inquiry, raised important questions about the relationship of federal Ministers and their offices to public servants. Further, all democratic governments face similar challenges as do many not for profit organizations in fashioning the relationship between board and staff.

The Importance and Universal Nature of the Issue

In earlier publications¹ the Institute on Governance has argued that there are five universal principles to good governance: legitimacy and voice; accountability; fairness; performance; and direction. The politician-staff relationship can affect each of these. For example, from a legitimacy and voice perspective, community members may not view as legitimate unelected officials or boards making important decisions that affect the community; similarly many may view decision-making based solely on political factors (favouring political allies and not the broad public interest) as equally illegitimate. With regards to accountability, unclear or blurred roles may render the holding of political leaders to account a difficult task for electors. The other good governance principles of performance, fairness and direction are equally affected by the state of this key relationship.

¹ 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.

Separating Politics from Administration – a Theory to Discard

Given the importance and universal nature of the relationship of political leaders to staff, it is not surprising that academics and practitioners have focused considerable attention on this issue. One of the most durable of doctrines is the politics-administration dichotomy – the need to create a clean split between political and administrator responsibilities. This doctrine is central to a recently published "First Nations Governance Handbook"² and appears to be one of the ideas behind the First Nations Governance Act, introduced by former Minister Nault.

However, there is mounting evidence, both theoretical and empirical, that this doctrine is far too simplistic and should be discarded. The clean separation of politics and administration just does not hold up in practice. Politics and administration are "messily entwined" and for good reasons³.

Partnership Based on Complementarity

A more promising approach, one that is attracting a growing consensus both in the academic, local government and not for profit worlds, calls for a partnership between political leaders and their staff based on complementarity. As one international study on local government involving 14 countries concluded:

“This study of the role of administration in the political process establishes more clearly than do previous studies that top administrators are partners in leadership

² "First Nations Governance Handbook", published under the authority of the Minister of Indian Affairs and Northern Development, Ottawa, 2001, www.inca.gc.ca. While the Handbook has its flaws, it contains some excellent material.

³ For an elaboration of this argument, see John Graham, "Managing the Relationship of First Nation Political Leaders and Their Staff", March 2006, www.iog.ca/publications.

with the mayor and other leading politicians. Leadership in government arises from and is conditioned by a relationship that is generally characterized by interaction, interdependency, reciprocal influence and mutual respect between politicians and administrators. Although there are differences in authority between the two sets of officials, they have a complementary relationship in which each needs the other and each makes unique contributions to the other in conducting both shared and separate tasks.”⁴

Rather than approaching public administration with a conceptual framework of dichotomy and looking for exceptions to it, it is more appropriate, according to many, to use a framework of complementarity and examine variations within it. Nonetheless, there will always be a “grey zone of accommodation” to manage (see figure 1 on the next page).

Managing the Grey Zone of Accommodation

We have identified five broad approaches that Aboriginal organizations and governments have used to manage this zone of accommodation. These are:

- the use of policies and codes
- structural and organizational approaches ranging from complaints and dispute resolution mechanisms to semi-independent boards
- nurturing the relationship through orientation, training and retreats
- encouraging the active involvement of citizens in community decision-making, and

- other tools and approaches including the use of information technology and certification regimes for organizations.

To illustrate how one of these tools – the use of policies and codes - can assist in managing this critical relationship, we have developed a model governance policy⁵ that Aboriginal governments or organizations might wish to use as a starting point for clarifying their relationships.

The model Policy consists of the following sections:

Model Governance Policy

1. Objectives
2. Definitions
3. Policy Statement
4. Roles & Responsibilities
5. Process for Addressing Complaints
6. Communicating this Policy
7. Review & Evaluation of this Policy
8. Date of Enactment & Signatures

For illustrative purposes, this model policy is written for a First Nation. That said it could be easily altered to fit any Aboriginal organization including those incorporated under not for profit legislation. (See figure 2 for a detailed version). Additional policies relating to administrative and program matters would serve to further clarify this important relationship.

In conclusion, it is highly unlikely that any one tool or approach will adequately deal with the many issues posed by the relationship of politicians and their staff. Indeed, what is likely called for is a comprehensive long term strategy, one that employs a variety of approaches.

⁴ Poul Erik Mouritzen and James H. Svara, “Leadership at the Apex: Politicians and Administrators in Western Local Governments”, University of Pittsburgh Press, 2002 P. 288- 290. The 14 countries were the United States, Australia, and 12 European countries including four in Scandinavian, England, Ireland, Belgium, France, Italy, Spain and the Netherlands.

⁵ The Institute gratefully acknowledges the contribution of the Lac Des Mille Lacs First Nation in creating this model policy. Nonetheless, the author remains fully responsible for its contents.

Figure 1

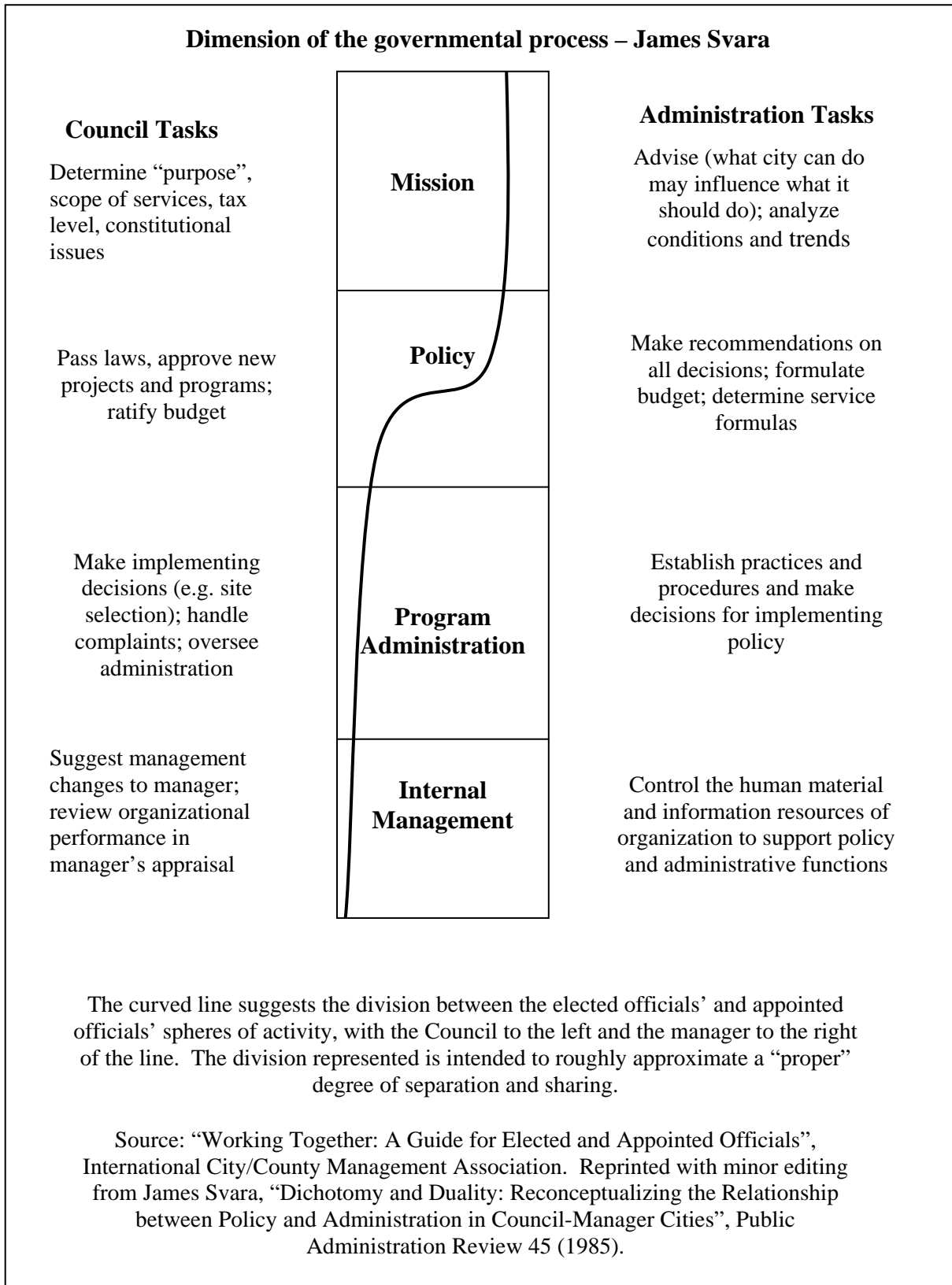


Figure 2

<u>Model Governance Policy</u>	
ROLES AND RESPONSIBILITIES COUNCIL & STAFF	
1. OBJECTIVE	<p>The objective of this policy is to ensure that roles and responsibilities of the Chief, Council and staff, particularly the Band Administrator, are as clear as possible so as to promote good governance in the conduct of the First Nation's affairs.</p> <p>Additional policies, especially those related to programs and administrative matters, will provide further clarification of these roles.</p>
2. DEFINITIONS	<p>Council refers to the Chief and Councillors of the First Nation</p> <p>Staff refers to the staff of the First Nation</p> <p>Administrator refers to the Band Administrator of the First Nation</p> <p>Citizens refers to all citizens including Councillors, Board members and staff, who are members of the First Nation</p>
3. POLICY STATEMENT	
3.1	<p>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 on both parties to discuss problems and make adjustments. Consequently, the partnership will not remain static but will evolve as circumstances and personalities change.</p>
3.2	<p>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.</p>
3.3	<p>Council may decide to establish committees 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.</p>

3.4 Council may decide to establish a portfolio system whereby an individual member of Council will have specific responsibilities in a specified area of Council's jurisdiction. Portfolio holders will be advisors to Council and will not direct staff unless expressly authorized by Council.

3.5 The responsibilities of Council vis-à-vis the First Nation's economic development corporation, its housing authority and its police governance board will be described in another policy and are not included here.

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 procedure
- All significant organization changes
- The hiring and evaluation of the Administrator
- The hiring of senior staff reporting directly to the Administrator on the recommendation of the Administrator
- The conduct of relationships with external organizations

4.2 Council will monitor and take corrective action about, when appropriate,

- 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 Band Administrator will assist Council in executing its responsibilities in 4.1 and 4.2 and the Chief's responsibilities under 4.3 and in addition will be responsible for

- The implementation of policies, programs and plans
- Recommending to Council the appointment of senior staff reporting directly to him or her
- Engaging all other First Nation staff
- Managing the First Nation staff

- 4.5** Elders' Council will at the invitation of Council
- Assist the Council and the Chief in executing aspects of their roles as laid out in 4.1, 4.2 and 4.3 above
- 4.6** To ensure that the Chief, the rest of Council and all staff of the First Nation perform their duties to the highest ethical standards and in the best interests of the First Nation, the Council will enact a Code Of Conduct to include a conflict of interest section.

5. PROCESS FOR ADDRESSING COMPLAINTS

- 5.1** Any citizen or resident of the First Nation who believes that Council or staff are not following this policy can direct his or her concerns to the Band Administrator in writing or recorded at the Administration office. The Band Administrator will respond to the complainant within 30 days
- 5.2** If the citizen or resident is still not satisfied following the response of the Band 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.

6. COMMUNICATING THIS POLICY

- 6.1** 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.

7. REVIEW & EVALUATION OF THIS POLICY

- 7.1** 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.

8. DATE OF ENACTMENT AND SIGNATURES

This policy was adopted by the Council at a duly constituted meeting on this ____ day of _____ 2007

Signed:

Chief and Councillors

Band Administrator