

## Terms of Reference (ToR)

### Huron-Superior Métis Restorative Justice Circle

Ministry of Natural Resources & Huron-Superior Métis Regional Community of the Métis Nation of Ontario

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#### Definitions

**Captain of the Hunt (“COTH”)** means an MNO citizen who has been duly appointed by the President of MNO to manage and administer the Métis harvest in his or her region; Captains of the Hunt are appointed to enable the effective management of the Métis harvest.

**Harvester** means an MNO Harvesters Certificate holder, issued for purposes of participation in the Métis harvest, which shall be considered proof that the holder has been verified by the MNO Registrar as having provided sufficient documentation to support a claim to an Aboriginal or treaty right to harvest. “Métis harvest” or “Métis harvesting” means the taking, catching or gathering in Ontario of renewable resources by MNO citizens. Such harvesting includes plants, fish, wildlife and firewood, taken for heating, food, medicinal, social or ceremonial purposes and includes donations, gifts and exchange with Aboriginal persons. For greater certainty such Métis harvesting is for reasonable personal use only and does not include harvesting for commercial purposes;

**Region, territory or “traditional territory”** means the geographic area that a Métis community in Ontario has historically relied on and continues to rely on for the Métis harvest.

**Restorative Justice Circle** means a formal body of the Huron-Superior Regional Métis Community, as agreed to by the MNRF. Its purpose is to provide culturally-relevant advice, and guidance to MNO citizens in the Huron-Superior Regional Métis Community on matters relating to but not limited to: repairing harm caused by harvesting wrongdoing, rebuilding relationships, increased community involvement, and community guidance. Restorative justice is focusing more on rehabilitation and reintegration rather than punishment.

#### Michif and Anishinaabemowin words:

la zhuschis – justice

la lway – jurisdiction

lii bataazh - the harvest

inaakonigewin - law

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## 1. Background

Métis people emerged along the lakes and rivers of fur-trade routes in parts of what is now Ontario between the late 1700s and early 1800s. For almost two centuries, the Métis at Sault Ste. Marie managed their own affairs in the absence of government influence by colonial authorities, and have a long history of organizing and asserting their way of life. Beginning in the 1960s, Métis in the Sault formed a local chapter of the Ontario Métis and Non-Status Indians Association (OMNSIA); and in the early 1990s, the Métis in SSM also created a proposal to establish their own court system to handle justice issues for the community.

These efforts for self-determination and self-governance continue in the contemporary Métis governance structure, including framework agreements between the Métis Nation of Ontario (MNO) and the Province of Ontario in 2014, the signing of the Métis Government Recognition and Self-government Agreement between the MNO and Canada in 2019, as well as, several agreements between the MNO and the Ministry of Natural Resources and Forestry (MNRF) culminating in the Harvesting Framework Agreement in 2018.

The harvesting of renewable resources has traditionally been and continues to be integral to the Métis way of life, and the harvesting of renewable resources has traditionally been and continues to be organized by the Captains of the Hunt for the benefit of the Métis community. On September 19th 2003, the Supreme Court of Canada confirmed in *R. v. Powley*, that Métis exist as an Aboriginal people and have existing harvesting rights within the meaning of s. 35 of the Constitution Act, 1982.

The MNRF in partnership with the Huron-Superior Métis Regional Community of the MNO, recognizes the need for an inclusive, culturally respectful, and restorative approach to addressing harvesting offences, stating:

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*Working with Indigenous communities through Collaborative Compliance Initiative to resolve natural resource offences involving Indigenous persons through community-based restorative justice. This initiative involves working with Indigenous communities on a case-by-case basis to determine if restorative justice is appropriate based on specific eligibility criteria*

*- MNRF Annual Report 2019-20*

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In order to facilitate this, the Restorative Justice Circle has been established to integrate Métis legal traditions and Western justice practices through a Two-Eyed Seeing lens — where both worldviews are honoured and brought together for mutual understanding and healing. The Huron-Superior Métis Regional Community is the first Métis Regional Government to implement such an approach.

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## 2. Purpose

The purpose of this Terms of Reference (ToR) is to outline the mandate, structure, and responsibilities of the Restorative Justice Circle. The Circle will serve as a joint mechanism through which harvesting-related offences can be addressed in a manner that restores relationships, respects cultural values, and fosters community accountability.

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### 3. Principles

- **Self-Determination:** The Right to Harvest is a fundamental Métis right and is protected by S.35 of the Canadian Constitution. The right to harvest is held collectively by the community, and as individual citizens – we have the right to harvest by virtue of our membership in the community. This means it is our collective responsibility to manage the harvest, and to ensure that our Métis Laws are followed, and respected.
  - **Respect:** A core value of Métis Culture is respect. We must act in a way that is respectful not only of ourselves, but of our community as a whole. We must have respect for the land and our non-human relatives. Respect for self means acting with integrity, accepting responsibility for your actions and being accountable to community.
  - **Responsibility:** The Huron-Superior Regional Métis Community takes seriously the responsibility we carry as a nation, and as government. We have responsibilities to the earth and our non-human relatives. We have responsibilities to ourselves to ensure our Métis Rules of the Hunt are followed. As citizens and harvesters, we have the responsibility to follow the harvesting policy as approved by the MNO General Assembly.
  - **Accountability:** Citizens must feel that their leadership are upholding the laws of the Métis Nation of Ontario. Citizens must feel that their fellow citizens who may be found to have violated the harvesting policy, are not only held accountable, but also take accountability for their actions.
  - **Restitution:** In addition to taking responsibility and being accountable, harvesters who violate the harvesting policy must act to provide restitution to the community for the harm that has been done.
  - **Fairness:** Harvesters are entitled to a fair and transparent process. All harvesters are entitled to the same process, resources and supports.
  - **Dignity:** Harvesters who violate the MNO policy must be held accountable, but they are entitled to a dignified process. They are entitled to discretion and privacy – the purpose of this process is to correct, not to shame or humiliate.
  - **Culture based:** This Regional Harvesting Restorative Justice Program shall be grounded in our unique Métis history and cultural perspectives.
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### 4. Scope

- The Circle will address minor to moderate harvesting offences committed within the Huron-Superior Métis Community Region.

- Cases will be referred to the Circle in lieu of, or in parallel with, formal enforcement or prosecution processes, where appropriate and agreed upon by both the MNRF and the Huron-Superior Métis Community Regional Government. The Circle will also be tasked with addressing offences brought forward by the Regional Community, outside the MNRF's process.
- The Circle may recommend restorative outcomes such as cultural engagement, or restitution tracked to the Province of Ontario's legal system, including but not limited to:
  - Suspension of Harvesting Card
  - Additional education and training
  - Restitution in the form of:
    - Food to freezers programs for Huron-Superior Regional Métis citizens
    - Firewood
    - Community Service and Time volunteering
    - Monetary donation to MNO Cultural Commission

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## 5. Structure & Composition

- **Facilitator:** The Captain of the Hunt (COTH) and Regional Councilor, or their Designate shall facilitate the Restorative Justice Circle
- **Circle Members:** The Restorative Justice Circle shall be comprised of seven (7) members appointed by the Regional Councilor in consultation with the Regional Consultation/Implementation Committee. The Circle will have a broad section of the community so that all demographic niches of the community are represented. Members will be chosen based on knowledge of hunting practices, legal traditions, and restorative justice principles. Upon appointment all members will receive training. The appointment shall be for a duration of 5 years.
- **Circle Secretary:** A secretary shall be appointed from among the Circle Members or by MNO Staff to disseminate information, take minutes, and track decisions.

## CONFLICT OF INTEREST

Every Circle member who is in any way directly or indirectly interested in the dispute resolution process, or who otherwise has a conflict of interest, will declare the interest fully prior to the Circle meeting and shall leave the meeting until such time as the conflict matter has been dealt with.

The Circle member may give a prepared statement regarding the conflict of interest, but shall leave the meeting for the decision-making process. The Circle reserves the right to recall the member to answer questions that would provide further clarification.

When there is a perception of a conflict of interest, another member may request an agenda item to ask the member to declare the conflict. The Circle will decide whether the member is in conflict, and record its decision.

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## **6. Roles & Responsibilities**

### **Ministry of Natural Resources and Forestry Representation**

- Provide overview of the alleged offences, and guidance on provincial laws and policies, including comparable consequences levied by the MNRF
- Ensure alignment with public safety and conservation goals.
- Facilitate training of Circle members on legal repercussions administered by the MNRF

### **Huron-Superior Métis Regional Community Restorative Justice Circle**

- Provide cultural and traditional insights into cases.
- Offer restorative justice practices rooted in Métis legal traditions.
- Facilitate restorative justice processes for referred cases.
- Facilitate training to Circle members on restorative justice principles
- Document outcomes and report back to referring authorities as agreed upon (See Section 8).
- Ensure processes are respectful, confidential, and culturally appropriate.

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## **7. Decision-Making Process**

Decisions of the Circle will be made by consensus whenever possible, reflecting the cultural values of the Huron-Superior Métis Regional Community.

The Restorative Justice Circle Process shall proceed as follows (see Appendix A for sample agenda):

1. The MNRF shall investigate the alleged offences, and should they determine there is sufficient evidence for charges, they shall offer the alleged offender the ability to avail themselves of MNO's Restorative Justice process, informing the COTH of the alleged offences, and the potential consequences the offenders faces should they choose not to participate in the Circle and the matter proceeds through the formal justice process.
2. Once referred to the Circle, the COTH or their designate shall call a meeting.
3. The representative of the MNRF will present the alleged offences to the Circle, then withdraws from the Circle discussions.
4. The Harvester who is alleged to have committed the offences shall meet with the Circle, provides their acceptance of their wrongdoing, as well as, their accounting of the alleged offences including their perspective, or any potential mitigating factors

5. Following the accounting provided by the Harvester, the Circle shall meet in camera to discuss the alleged offences and the acceptance of wrongdoing provided by the Harvester
  6. The COTH or their designate will provide the decision to the Harvester on behalf of the Circle.
  7. The COTH will follow up to ensure the restorative justice process is followed according to the timelines established by the Circle, and will report back to the Circle and MNRF if conditions are not met in the agreed upon timeline.
  8. If the process is followed and the timelines met, the MNRF will be notified by the COTH, and the file shall be closed with no formal charges laid, and no record of the offence. If the process and timelines are not met, the Circle jointly agrees to the MNRF filing formal charges.
  9. An annual report shall be issued by The Circle, providing an overview of collected data, and the year's outcomes in working with offenders. All information will be presented in a non-identifiable and confidential manner (See Section 8).
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## **8. Confidentiality**

All Circle proceedings are confidential. The intent of the Circle is to address alleged harvesting offences within the Métis legal traditions, in a culturally-informed manner in lieu of, or in parallel with, formal enforcement or prosecution processes. As such, information collected during the Circle proceedings will only be collected in aggregate, and the information shared during restorative justice processes will not be used outside the scope of the Circle without explicit consent.

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## **9. Duration**

This ToR is in effect from July 31<sup>st</sup> 2025, and will be reviewed after one year to assess effectiveness, with revisions made as necessary by mutual agreement.

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## **10. Review and Amendments**

This document may be reviewed and amended at any time by the Huron-Superior Métis Community Regional Government.

## Appendix A - Sample Circle Agenda

### Agenda Items

#### Opening

The Circle meeting is opened, chaired and convened by the COTH or their designate. An Opening Prayer and Smudge provided by Senator or Community elder. The COTH outlines the purpose of the Circle.

#### MNRF Presentation

The MNRF representative presents an overview of alleged offences, with discussion to follow by Circle Members

#### Harvester Testimony

The Harvester provides testimony and mitigating factors

#### Lunch

Restorative Justice Circle Lunch Break

#### Circle Internal Discussion

Circle meeting in confidence to review the information presented, and attempt to come to a consensus decision.

#### Closing

Closing Prayer is offered by a Senator or community elder.

### Additional information

The Harvester is informed of the findings of the Circle, with discussions of restitution options, and follow up plans after the meeting has concluded. The COTH shall issue an annual report to the MNRF on behalf of the Restorative Justice Circle of the of number of alleged offences addressed, and restorative steps taken. No confidential information will be shared in this report

## **Appendix B – Reference Documents**

- ☐ [MNO Harvesting Policy \(effective as of the 19<sup>th</sup> day of August, 2023\)](#)
- ☐ MNO Confidentiality Agreement
- ☐ [Schedule 17.5 – Last Updated: May 7, 2021 | Ontario Court of Justice \(ontariocourts.ca\)](#)