

## **Code of Conduct**

### **SUB SECTION 1.1 - Scope**

a. This code applies to the Martlet workplace. For the intent of the code the workplace is defined as the Martlet office, the time at all conferences, staff meetings and Martlet Publishing Society board meetings, as well as the time spent traveling to and from said conferences and meetings. The Martlet workplace also extends to all Martlet listserv and communications from Martlet email addresses as well as any other time that a Martlet staff member, volunteer or member can reasonably be considered to be representing the Martlet.

b. This code applies to all members of the Martlet, meaning all staff and volunteers.

### **SUB SECTION 1.2 - Jurisdiction**

Complaints with respect to a violation of this Code may be made by members of the Martlet in relation to the conduct of other members where the complainant is directly or indirectly affected by the conduct in question. See paragraphs 1.7 and 1.9.

### **SUB SECTION 1.3 - Rights**

All Martlet members may reasonably expect to pursue their work in a safe and civil environment. The Martlet therefore does not condone harassment or offenses against property. The Martlet does not condone harassment.

### **SUB SECTION 1.4.1 - Harassment**

a. Harassment may be verbal, physical, or psychological. It is unwelcome and unsolicited. It may be one incident or a series of incidents on the basis of colour, sexual orientation, disability, age, marital status, political or religious affiliation, place of origin, class, physical characteristics or gender.

b. Harassment consists of any vexatious comment or conduct that is known, or should reasonably be known, to be unwelcome.

c. Harassment may include, but is not limited to:

- i) unwelcome remarks, jokes, innuendoes or taunts about a person's body, clothing, sex, gender, sexuality, racial background, disability, age;
- ii) insulting gestures and practical jokes: for example, of a sexist, racist or homophobic nature;
- iii) the display of pornographic and/or racist material;
- iv) leering;
- v) refusing to talk to, or work cooperatively with a person because of sex, ethnicity, colour, sexuality, age;
- vi) unwelcome physical contact, such as patting, touching, pinching;
- vii) unwelcome sexual overtures;
- viii) sexual assault;
- ix) physical assault; and,
- x) creating, or threatening to create, a condition which unnecessarily endangers or threatens the health, safety or well-being of another member or group of members.

**SUB SECTION 1.4.2 – Behavioural Expectations**

Members are expected to conduct themselves in a manner that is conducive to a positive environment and abstain from conduct that is detrimental to the reputation of the Martlet.

**SUB SECTION 1.5 - Responsibilities**

All Martlet members are expected to refrain from violating this Code. Members of the Martlet who have supervisory authority over others bear particular responsibility to act in a timely and effective manner if they become aware of any violation of this Code.

**SUB SECTION 1.6 - Assistance From the Ombuds**

This Code establishes that the Ombuds are mandated to assist Martlet members in resolving incidents involving an alleged violation of this Code, in an effective and constructive manner. Such assistance is available to individuals who believe that they have been subjected to conduct that violates this Code, to those with supervisory authority who are called upon to respond to incidents of such conduct, and to those individuals who have been charged with the violation of this Code.

**SUB SECTION 1.7 - Complaints Subject To A Range Of Responses**

In keeping with the desire to settle conflicts in an effective and constructive manner, the Martlet shall endeavour to seek an appropriate response to any alleged violations of this Code, ranging from the use of alternate methods of conflict resolution to formal procedures for adjudicating complaints (1.9.1). If a violation has occurred, every attempt shall be made to use remedies and sanctions that restore harmony, collegiality and cooperation between members.

**Courses Of Action**

After consulting the Ombuds, the complainant shall decide upon one of the following courses of action:

- To take no further action;
- To proceed with informal conflict resolution, mediated by the Managing Editor, or by an alternate mediator selected by the Ombuds, should the Managing Editor feel it necessary to seek outside mediation;
- To pursue any other course of action available at law; or
- To file a formal complaint:

**SUB SECTION 1.9.1 – Formal Complaint**

At all stages of the complaint procedure the rights to confidentiality and fairness of both the complainant(s) and the defendant(s) shall be held in the highest regard by all participants.

- a. Normally, a formal complaint should be made within two months of the alleged violation. This period may be extended at the discretion of the Ombuds (or alternate recipient of the complaint, as per clauses e. and f. below).
- b. Any formal complaint must be made in writing and include substantive detail as to the nature and extent of the alleged code violation(s), and must specify the identity of the defendant(s). The identity of the complainant shall be revealed to the defendant, unless the Ombuds decide that the complainant's safety would subsequently be at risk.
- c. Complaints should only be filed by those directly affected by the alleged violation. Complaints may not be brought on behalf of another party.
- d. Formal complaints should be filed to the attention of an Ombuds.

- e. In either of the events that both the Ombuds prove to be either unavailable, or have recused themselves, then any other voting member of the MPS Board, the Managing Editor or the Editor-in-Chief may receive the complaint.
- f. The recipient of the complaint will then act as chair of the grievance committee (see 1.1.2).
- g. The committee chair shall hold the complaint in confidence.
- h. The committee chair shall inform the complainant(s) of any delays regarding the complaint procedure, should they occur.

**SUB SECTION 1.9.2 – Initial Composition of the Grievance Committee**

The grievance committee shall be composed of three (3) officers of the Martlet according to the following guidelines and procedure.

- a. The chair of the committee shall work to immediately fill the two other positions, avoiding any persons known to be substantially in conflict with either the complainant(s) or defendant(s).
- b. The first and second additional member of the committee shall be either an Ombuds, a voting member of the MPS Board or alternately the Managing Editor or the Editor-in-Chief.
- c. The chair should also recognize the need to represent a diversity of backgrounds and opinions on the committee.
- d. Having preliminarily established an absence of malice or conflict on the part of a prospective member of the committee, the chair shall disclose the written complaint to the prospective committee member in strict, stated confidence. The chair shall then ask the prospective committee member to declare if they feel able to deal fairly with the complaint involving the named parties. If they can not do so then they shall be replaced by another suitable member according to the criteria set out in clause b. or c. of this section.
- e. The chair shall make every reasonable effort to complete the initial selection of the grievance committee within 48 hours of receiving the complaint; sooner if practicable.
- f. The chair will notify the complainant(s) of the composition of the grievance committee to ensure there are no substantial conflicts from the perspective of the complainant(s). It shall fall to the judgment of the committee as a whole to weigh any objections.

**SUB SECTION 1.9.3 - Notification of Defendant(s) and Right of Reply**

- a. The chair of the committee shall make every reasonable effort to notify the defendant(s) in writing that a complaint has been filed within 24 hours of the approval of the committee by the complainant(s); sooner if practicable.
- b. The composition of the committee, assembled in accordance with 1.9.2, shall also be disclosed to the defendant at this time.
- c. The defendant(s) shall receive a copy of the formal complaint as well.
- d. The defendant(s) shall be encouraged to submit a written statement in answer to the complaint.

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e. The defendant(s) shall also be expressly notified of the opportunity to state, in writing, any objections to the composition of the committee.

f. The defendant(s) shall normally have 48 hours to compose these responses, though this may be extended at the discretion of the committee.

### **SUB SECTION 1.9.4 – Committee Review**

a. Immediately after receipt of documents from the defendant(s) the chair shall disclose to the grievance committee the defendant(s)' reply to the allegations.

b. Any objection on the part of the defendant(s) to the composition of the board shall also be reviewed.

c. If any two members of the committee feel the third to be in a substantial conflict, and the third does not willingly recuse him/herself, then the third may be removed by the two and a new third may be sought according to guidelines in 1.9.2.

d. If the chair is dismissed by the other two then the first committee member from the list in 1.9.2.b. shall become the new chair. The new chair shall select a new member of the committee from that same list to fill the vacancy.

e. In the event that the composition of the grievance committee changes by resignation or removal, both the complainant(s) and defendant(s) shall have a right of reply to the appointment of any new member of the committee.

f. Objections to these appointment shall be weighed by the committee and, if warranted, the new member may be removed and replaced by another candidate from the list in 1.9.2.b.

g. Any dismissed member shall continue to maintain the confidence of all knowledge pertaining to the complaint and reply thereto.

h. The intent of this provision is to ensure that the committee is fair and impartial; these procedures should not be employed frivolously to delay the proceedings.

### **SUB SECTION 1.9.5 – Investigation**

a. The committee shall investigate the details of the alleged code violation to ascertain their veracity.

b. Any interviews conducted shall be recorded and transcribed for the investigation file.

c. Interviews shall be conducted only in the presence of all members of the committee; though meeting in person is preferred this provision may be satisfied by conference calling.

d. Both the complainant(s) and defendant(s) shall have the opportunity to suggest witnesses for interview.

e. Hearsay shall not be admissible and shall be stricken from the record. (Hearsay may be understood as second-hand evidence in which the witness is not telling what he/she knows personally, but what others have said to him/her).

f. Committee members shall not ask leading questions of the witness. (Leading questions are those which supply new information to the witness or otherwise suggest an answer or putting words in the mouth of the witness.)

g. Witnesses shall be entitled to request a copy of the transcript of their interview no less than 48 hours from giving it, and may ask for it from the investigation file at any time until the records are destroyed in accordance with provisions in 1.9.9.

h. Witnesses may correct errors they note but may not change their testimony. If witnesses persist in desiring to significantly alter their statements then their entire testimony shall be deemed discredited and hence ignored.

i. Once the committee is satisfied with the evidence collected they shall forward it to the defendant(s) and complainant(s) for review.

j. The defendant(s) shall be given the opportunity to respond in writing to any evidence considered by the committee.

#### **SUB SECTION 1.9.6 – Decision**

The committee may not render a decision until it has collected sufficient facts upon which to act.

Decisions must be in writing and must enumerate the rationale for their ruling.

The grievance committee:

a. May dismiss the complaint if found to be groundless or dilatory.

b. May recommend another form of mediation if the complaint does not fall within the purview of this code.

c. In respect of a defendant who is a volunteer and not also paid staff member the committee may resolve any of the following individually or in combination:

i. To request an apology from the defendant(s);

ii. To issue a temporary suspension of privileges of the defendant, including automatic and immediate expulsion from any Martlet function and/or cessation participation in any on-line Martlet community (this provision is intended to be employed to remove offenders deemed to pose a serious risk to the safety of others, with more permanent action to be taken pending the outcome of a related proceeding, e.g. a criminal case, some other arbitration or a related appeal to the MPS Board); and/or,

iii. To recommend to the MPS Board a permanent revocation of the defendant(s)' privileges, enjoining them from ever attending conferences, participating in any on-line Martlet community, or running for any Martlet positions.

d. In respect of a defendant who is Martlet staff, the committee may resolve any of the following individually or in combination:

i. To request an apology from the defendant(s);

ii. To issue a formal reprimand for the personnel file (which may be referenced in combination with later reprimands or warnings as cause for termination);

- iii. To order an immediate short-term suspension with pay (if applicable) for up to two weeks, which shall include immediate expulsion from any Martlet conferences and/or meetings (this provision is intended to be employed to remove offenders deemed to pose a serious risk to the safety of others, with more permanent action to be taken pending the outcome of a related proceeding, e.g. criminal, or pending the decision of the MPS Board on the recommendation of termination). The suspension may be extended indefinitely at the discretion of the MPS Board;
- iv. To refer a recommendation of termination of employment or contract (if applicable) to the MPS Board for ratification; and/or,
- v. To recommend to the MPS Board a permanent revocation of the defendant(s)' privileges, enjoining them from ever attending conferences, participating in any on-line Martlet community, or running for any Martlet positions.

Though the members of the committee will ideally be in consensus, a member in disagreement with the decision's grounds and/or scope must detail their reasoning in a dissenting opinion as part of the written decision.

**SUB SECTION 1.9.7 – Role of the MPS Board: Referrals for Ratification of Certain Decisions; Appeals**

It shall fall to the MPS Board to act as the body of appeal for all matters arising from this Code's grievance committee process. It must be stressed that aspects of the complaints and the identity of those involved shall be kept in the strictest confidence and that all discussions shall be held in camera.

- a. The complainant(s) may appeal dismissal of the complaint (1.9.6.a.) to the MPS Board in writing within one month of the decision by the grievance committee.
- b. Any member of the MPS Board in a conflict of interest or named in the complaint shall recuse themselves from any discussion of the issue at the Board. A two-thirds majority of other voting members of the board may force this recusal.
- c. The extension of any suspension (1.9.6.c.iii. or 1.9.6.d.iii) must be ratified by the MPS Board with full reference to the investigation files. It shall fall to the MPS Board at that time to decide whether the suspension will include pay (if applicable), and whether to replace the defendant(s) on an interim basis (if applicable).
- d. Any recommendation for termination or permanent revocation of privileges (1.9.6.c.iv or 1.9.6.d.iv and/or 1.9.6.d.v.) must be ratified by the MPS Board with full reference to the investigation files.
- e. The defendant(s) may appeal any ratification decision of the MPS Board in writing.
- f. The defendant(s) is/are entitled to a hearing before the MPS Board in respect of any appeal.
- g. All decisions of the MPS Board must be given in writing and must include reasoning, and shall be appropriately filed with other documents from the investigation. As with decisions from the committee level, dissenting opinions shall be included if applicable.

**SUB SECTION 1.9.8 – Methods of Communication**

Both complainants and defendants are entitled to the speedy resolution of these proceedings. As such, various methods may be employed to correspond provided the confidentiality of material being

transmitted is assured.

- a. With the permission of the recipient, email may be used to transmit documents, with the telephone used to verify receipt.
- b. With the permission of the recipient, facsimile may be used to transmit documents, with the telephone used to verify receipt.
- c. Interviews during the investigation phase may be conducted either in person or via telephone, in the latter case provided all members of the committee are participating via conference call.
- d. Ideally the grievance committee will meet in person, but if necessary they may convene by telephone provided all members are in receipt of the same documents, and provided all members are accounted for via conference call.

#### **SUB SECTION 1.9.9 – Records of Decisions and Investigations**

- a. The written decision issued by the grievance committee or subsequently by the MPS Board will be included in the personnel file of the defendant(s) along with the investigation transcripts, as well as the original written complaint and reply.
  - i. Both the complainant(s) and the defendant(s) have the right to see these documents;
  - ii. other witnesses in the investigation do not.
- b. Records from complaints deemed dilatory or groundless (1.9.6.a.) shall be destroyed after one month, once the window for appeal has elapsed.
- c. Records of all other complaints and decisions shall be retained in the files for three (3) years, at which point they shall be destroyed under the supervision of the Managing Editor and Ombuds.

#### **SUB SECTION 1.9.10 –Notification of Decisions**

The right to confidentiality of complainants and defendants must be balanced firstly against members need to be aware, and secondly against need for members to be kept aware of the disposition of their officers.

Decisions arising out of this process, both of the committee and the MPS Board shall remain confidential except in the following cases, and even so only specified aspects will be made selectively available according to the stipulations in each case:

- a. In the event of any reprimand being issued to a Martlet staff member, the MPS Board shall be notified in camera of the identity of those reprimanded, but not of the specifics of the complaint.
- b. In the event of any suspensions arising from this process, members will be notified of the suspension of the defendant, and further that it came about as a consequence of a Code of Conduct violation, and told what other processes are available to the defendant (appeal to the MPS Board or appeal to the courts in answer to the decision). The details of the complaint and arising decision shall otherwise remain confidential.
- c. In the event of a termination, based on the recommendation of the grievance committee, members shall be notified that the defendant has been dismissed on the basis of a Code of Conduct violation. The details of the complaint and the decision shall otherwise remain

confidential.

d. None of the provisions laid out in this section shall be interpreted as to limit the power of the MPS Board to consider all evidence on a confidential basis in the event of an appeal, in accord with 1.9.7.

**SUB SECTION 1.10 - Informing The Community**

The Ombuds shall undertake to inform all members, staff and volunteers of the Martlet of the provisions of this Code and the services provided along with it.

**SUB SECTION 1.11 Fairness And Consistency**

Complaints made under this Code shall be adjudicated in a manner that is consistent with the principles of natural justice and fair for all parties to the complaint, regardless of constituency. The principles of natural justice may be defined broadly as the obligation to hear the other side and to make a decision untainted by bias.

**SUB SECTION 1.12 - Consultation With The Ombuds**

The Ombuds shall be impartial in the exercise of her/his functions, and shall respect the confidentiality of all parties to any matter in which the Ombuds has been requested to assist.

**SUB SECTION 1.13 - Complaints Relating To The Operations Of The Ombuds**

If a member considers that the Ombuds has failed to follow the procedures outlined in this Code, with respect to any matter to which the member has been a party, she or he may submit a written complaint, detailing the alleged procedural failure, to the Chair of the MPS Board. The Chair shall investigate the complaint against the Ombuds and inform the member of the results of the investigation. The Chair, in consultation with the Managing Editor, shall decide upon an appropriate disciplinary course of action.

**SUB SECTION 1.14 - Recourse To Law**

This Code does not detract from the right of members to seek the recourse of law.

**2.1 Progressive discipline for fulltime staff**

Should any party feel that the fulltime staff is not meeting the terms of his/her contract or is not fulfilling aspects of his/her job description, the following procedure shall be followed.

a. The complainant will send a formal grievance letter to the MPS Board Chair or Ombuds. The letter should outline the specific grievance and what action the complainant wishes to see.

b. Upon receipt of a formal grievance letter, the Board Chair and Ombuds must meet to discuss the grievance. The Board Chair and Ombuds will proceed with progressive discipline at their discretion. If they decide formal discipline is necessary the Ombuds rep must immediately arrange for a meeting with said staff member. The Ombuds and Chair will endeavour to maintain the confidentiality of the complainant at all times. The Ombuds will be responsible for filing all correspondence and documentation of the disciplinary process and for maintaining its confidentiality.

c. The first two warnings are oral and given by the Board Chair and Ombuds. Both warnings must include specific examples of the behaviour that needs to be changed and suggestions for performance improvement. Each of the warnings must be documented and filed in the confidential personnel files kept by the Ombuds. Documentation should include the date of the warning, the improvements that need to be made and the signatures of the Ombuds and Chair. Documentation should also include any responses by the staff member in question to the charges



of poor performance. At least two weeks must elapse between the first and second warning.

d.

i. Upon the receipt of a third grievance letter the Ombuds and Chair will call an emergency meeting of the MPS Board of Directors to discuss the third and final warning.

ii. The third and final warning will be given at the discretion of the Board.

iii. The third and final warning is written, signed and given to the staff member by the Ombuds and Chair.

iv. The third warning must include suggestions for performance improvement and explicitly state that if poor performance continues the staff member will be fired.

v. A copy of the third warning must be signed and dated by the staff member in question and filed in the confidential personnel file by the Ombuds.

vi. If the staff member disagrees with the content of the warning, he or she can write a letter to the Ombuds outlining what he or she disagrees with.

vii. A third warning must be given no less than two weeks after a second warning.

e. The Ombuds shall send a letter to said staff member indicating the board's acknowledgement of the warnings and letting the full-time staff member know that they will face dismissal pending another infraction of their job description and/or contract.

f. Dismissal: If a fourth grievance letter is filed after a period of no less than two weeks, the Ombuds and Chair must call an emergency meeting of the Board to discuss the possible dismissal of the staff member in question. In the event that the Board moves to dismiss the full-time staff member the motion must have 2/3 to carry.

g. The Board must also send a formal letter documenting the dismissal to said full-time staff member. A copy of letter must be filed in the confidential personnel file.

h. This procedure is meant to apply to full-time staff members who are not performing to the Martlet's expectations and does not preclude the Martlet from terminating a term of employment without notice or severance with just cause such as under the extreme circumstances of sexual assault, fraud, embezzlement, etc

## **2.2 Progressive discipline for fulltime staff over the summer**

**Should any party feel that the fulltime staff is not meeting the terms of his/her contract or is not fulfilling aspects of his/her job description during the summer months, the above procedure shall be followed. Because, however, it is not always possible for the Board or Ombuds to be reached during the summer due to summer staffing and school vacation, alternate procedures are presented below.**

**a. Both other full-time staffers must be in agreement on the complaint, and must together file a formal written complaint with the MPS Board Chair or Ombuds. The letter should outline the specific grievance and what action the complainant wishes to see.**

b. Procedure b. from section 2.1 shall be followed unless, after a week, the Board Chair and/or Ombuds cannot be reached. In that case, complainants should file a written complaint outlining both the **specific grievance and what action the complainants plan to take. Complainants should also address the complaint to the party involved, who can then file a written**

**explanation. Full documentation of all actions taken should be filed.**

c. If procedure b. from section 2.2 has been followed: The first two warnings are oral and given by the two other full-time staffers. Both warnings must include specific examples of the behaviour that needs to be changed and suggestions for performance improvement. Each of the warnings must be documented and filed. Documentation should include the date of the warning, the improvements that need to be made and the signatures of all three full-time staffers. Documentation should also include any responses by the staff member in question to the charges of poor performance. At least two weeks must elapse between the first and second warning.

d. Procedure d. and e. from section 2.1 shall be followed, unless the Board cannot be reached after the period of a week. In that case:

- i. The two other full-time staff must meet to discuss the third and final warning, filing a full audio recording of that meeting.
- ii. The third and final warning will be given at the discretion of both other full-time staff.
- iii. The third and final warning is written, signed and given to the staff member by both other full-time staff.
- iv. The third warning must include suggestions for performance improvement and explicitly state that if poor performance continues the staff member will be fired.
- v. A copy of the third warning must be signed and dated by all three full-time staffers and filed with all other documentation.
- vi. If the staff member disagrees with the content of the warning, he or she can write a letter and file it, outlining what he or she disagrees with.
- vii. A third warning must be given no less than two weeks after a second warning.

e. Documentation of all attempts to contact the Board and Ombuds must be filed.

f. Dismissal: Procedures f. and g. from section 2.1 shall be followed unless the Board cannot be reached after the period of a week. In that case, the two other full-time staffers must meet to discuss the possible dismissal of the staff member in question, providing a full audio recording of that meeting. In the event that the staff moves to dismiss the staff member the motion must have unanimous support to pass.

g. If procedure f. from section 2.2 is followed, the staff must also send a formal letter documenting the dismissal to said staff member. A copy of letter must be filed with all other documentation.

h. This procedure is meant to apply to full-time staff members who are not performing to the Martlet's expectations and does not preclude the Martlet from terminating a term of employment without notice or severance with just cause such as under the extreme circumstances of sexual assault, fraud, embezzlement, etc

i. If alternate procedures are followed, the two remaining full-time staff members must provide full documentation and justification to the Board when it reconvenes in September. If the Board is unsatisfied with justification of the decision made, discipline will be taken, up to and including dismissal.

j. If the former full-time staff member in question feels that the decision is unjust, he or she has the right to present his or her case to the Board in September, in recompense for lost wages.

k. At any time during these procedures, the full-time staff member in question has the right to attempt to contact the board him or herself.

### **3. Replacement full-time hiring procedure**

a. In the event of the resignation of a full-time staff member, the Board of Directors shall:

i. Form a hiring committee as outlined in Employment Policy #3.

iii. The committee will follow the procedure in Employment Policy #3, with the exception of the dates laid out in said policy. The position need only be posted for two weeks.

b. In the event of the resignation or dismissal of part-time staff the position will be posted by the Managing Editor and hired by the Managing Editor.