

# **Code of Conduct for Members of the Military Police Complaints Commission of Canada**

At the Military Police Complaints Commission, decision-makers are Governor in Council appointees under the authority of the Privy Council Office. The purpose of this Code of Conduct is to provide the values and ethics framework within which our Members conduct themselves and fulfill their Commission duties with transparency, accountability and in the public interest.

## **Application**

1. The Code of Conduct for Members (Member Code) of the Military Police Complaints Commission (MPCC) is effective as of July 1, 2021.
2. The *National Defence Act (NDA)*<sup>1</sup> allows for the appointment of a full-time Member who is the Chairperson of the MPCC and up to four part-time Members at any given time. The Member Code applies to all the Members appointed to the MPCC.

## **Statement of Purpose**

3. The Member Code establishes the standards of conduct and other obligations that govern the professional and ethical responsibilities of Members appointed as decision-makers at this quasi-judicial administrative tribunal.
4. Each Member has the responsibility to read and comply with the provisions of the Member Code.
5. The Member Code is intended to supplement and should be read in conjunction with any applicable requirements that are established for federal public servants and Governor in Council (GIC) appointees as well as the MPCC employee Code of Conduct. The references to policies and statutes in this Member Code may not be exhaustive and it is incumbent upon an individual Member to inform themselves of their rights and obligations as GIC appointees.

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<sup>1</sup> RSC 1985, cN-5 [NDA].

## Scope

6. Members are subject to the legislative provisions as set out in the *NDA* and other statutes and regulations. The Member Code also complements the Oath of Office that Members are required to swear under the auspices of section 250.1 (11) of the *NDA* such that they will faithfully and honestly fulfill their duties as administrative adjudicators for a civilian police oversight body.
7. Members are required to abide by the *Terms and Conditions applying to Governor in Council appointees (Terms and Conditions)*<sup>2</sup> which detail the principles for Member conduct, stipulate that Members must perform their duties in the public interest, and that their personal and professional conduct must be beyond reproach.
8. The *Terms and Conditions* also require Members to respect the principles of any code of conduct applicable to the organization to which they are appointed.
9. Section 2 of the *Terms and Conditions* also refers to the *Values and Ethics Code for the Public Sector (Values and Ethics)*<sup>3</sup>. Members are required to abide by the *Values and Ethics Code* which outlines the expected behaviours for those employed in the federal public sector who must act, at all times, with integrity and in a manner that will bear the closest public scrutiny, an obligation that may not be fully satisfied by simply acting within the law. These behaviours include valuing diversity and creating workplaces free from harassment and discrimination in a positive and active manner. Unacceptable behaviour towards others, for example, racial, sexual or other discrimination or harassment, bullying or creating an intimidating or hostile environment will not be tolerated and may constitute a breach of the terms and conditions of appointment and grounds for termination for cause.

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<sup>2</sup> <https://www.canada.ca/en/privy-council/programs/appointments/governor-council-appointments/compensation-terms-conditions-employment/terms-conditions.html>.

<sup>3</sup> <https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25049>

10. Members are also subject to the policy entitled *Open and Accountable Government November 27, 2015*<sup>4</sup> and its Annex A which is the *Ethical and Political Activity Guidelines for Public Office Holders*. These apply to all public office holders as defined under the *Conflict of Interest Act*<sup>5</sup> (CIA) including both full and part-time GIC appointed Members. The ethical guidelines and statutory standards of conduct in these documents explicitly stipulate that Members avoid all political activities for the duration of their appointment to the MPCC.

## **Administration**

11. The authority of the Privy Council Office (PCO) governs the employment of the GIC appointed Members as a whole. While working at the MPCC, the part-time Members work under the leadership of the Chairperson. The Chairperson is responsible for the promotion and administration of the Member Code.

12. Any matter relating to the breach of the Member Code by a part-time Member shall be referred to the Chairperson for resolution which may include referral to the PCO. Any matter relating to the breach of the Member Code by the Chairperson shall be referred directly to the PCO for resolution. Any matter that may be a violation of the *Criminal Code*<sup>6</sup> is beyond the application of this Member Code and will be referred to the appropriate authorities.

13. Any breach of the Member Code may result in corrective measures to be determined in light of the circumstances and gravity of the breach. These measures may include training or a note to the Member's file for minor matters, or a recommendation to the PCO for suspension or termination of the GIC appointment for serious and repeated matters.

## **Standards**

14. The standards of conduct set out in the Member Code are based on two fundamental principles:

- i) maintenance of public confidence and trust in the integrity, objectivity and professionalism of the MPCC, and

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<sup>4</sup> Canada, Privy Council Office, "Open and Accountable Government", [https://pm.gc.ca/eng/news/2015/11/27/open-and-accountable-government#Ethical\\_and\\_Political\\_Guidelines](https://pm.gc.ca/eng/news/2015/11/27/open-and-accountable-government#Ethical_and_Political_Guidelines) (Ottawa: PCO, 2015).

<sup>5</sup> SC 2006, c 9, s 2.

<sup>6</sup> RSC 1985, c C-46.

ii) independence and impartiality in decision making.

15. Members are required to exercise the highest standards of honesty, accountability, good faith, fairness, respect, discretion, and cultural sensitivity in the performance of their duties, and at all other times. Members' conduct must reflect these values in regard to colleagues, MPCC staff, parties to complaints and hearings, external stakeholders and the general public.
16. Members have a responsibility to maintain a high level of professional competence and expertise required to fulfill their responsibilities and duties as a decision maker at the MPCC.
17. The Chairperson delegates decision-making powers to the part-time Members as per the *NDA*. Part-time Members cannot delegate their decision-making powers.
18. Members shall uphold the principles of procedural fairness and natural justice when seized of a complaint. Members shall decide all matters in a complaint with an open mind, objectively, impartially and free from any improper influence.
19. Members shall notify the Chairperson in the event of a real, apparent or potential conflict of interest in their responsibilities and duties as a decision maker in any role or matter assigned to them by the Chairperson.
20. Members have a responsibility to support the operational mandate of the MPCC which may include participation in Outreach visits to Canadian Armed Forces bases and learning facilities, and any conferences or meetings as required.
21. Members shall not disclose any information obtained in their capacity as a decision maker at the MPCC where the disclosure is not operationally required on a need-to-know basis. Any communication regarding an operational matter received by the Member from outside the MPCC, for example, directly from the public, the media, any governmental or non-governmental department or agency or parties to a complaint before the MPCC, must be reported to the Chairperson who will decide on the appropriate course of action to address the matter.
22. Members shall not accept gifts including hospitality or other benefits, that are advantages or could be perceived as advantages and could therefore give rise to an apprehension of bias and

undermine their responsibilities and duties at the MPCC as independent and impartial adjudicators.

## **Conflict of Interest**

23. Members appointed to the MPCC are permitted to pursue activities outside of their Commission duties. As per section 250.1 of the *NDA*, the Chairperson is required to devote the whole of their time to the performance of their duties under the *NDA*; this does not preclude participation in volunteer activities. The part-time Members may pursue both volunteer and remunerated activities.
24. The principles found in the *Values and Ethics* echo those found in the *CIA* require that Members prevent any real, apparent or potential conflicts of interest between official responsibilities and duties as a Member and their private affairs.
25. Members may not participate in any activity or hold any office or employment that is inconsistent with their official responsibilities and duties at the MPCC. Members may not use their official roles to inappropriately obtain an advantage for themselves or to advantage or disadvantage others. Members must take all possible steps to prevent and resolve any real, apparent or potential conflicts of interest between their official responsibilities and their private affairs in favour of the public interest.
26. Members must report all activity, volunteer or remunerated, that falls outside of their official responsibilities and duties at the MPCC to the Chairperson and may be subject to a conflict of interest review. The purpose of the conflict of interest review is to determine if the activity gives rise to a real, apparent or potential conflict of interest, or a possible apprehension of bias, by the nature of the activity itself or any pecuniary interests that may be derived from it. The process of the conflict of interest review is guided by the provisions of the *CIA* and the Treasury Board paper entitled *Apparent Conflict of Interest*.<sup>7</sup>

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<sup>7</sup> Government of Canada, "Apparent Conflict of Interest", <https://www.canada.ca/en/treasury-board-secretariat/services/values-ethics/conflict-interest-post-employment/apparent-conflict-interest.html>.

27. Should it be revealed that the given activity presents a real or a perceived conflict of interest with responsibilities and duties at the MPCC, the Member may be required to refrain from affiliation or participation in the activity for the duration of their appointment to the MPCC, or recuse themselves from their Commission duties. Should the Member disagree with the outcome of the conflict of interest review, the matter may be referred to the PCO and the Office of the Conflict of Interest and Ethics Commissioner for assessment and resolution.

### **Preservation of the Member Code**

28. The Director General and Senior General Counsel is responsible for updating the Member Code as required.

29. Should any Member have questions or concerns about the scope, application and interpretation of this Member Code, these shall be brought to the attention of the Chairperson or the Director General and Senior General Counsel who will advise as to the process of addressing and resolving the matter.

30. As the Member Code cannot anticipate every possible situation of Member conduct, any questions and concerns shall be evaluated on a case-by-case basis.

31. The Member Code was last updated on May 20, 2021.

Approved by the Chair

Hilary C. McCormack