

Torbay Council

Complaint by Anne-Marie Bond against Cllr Katya Maddison

Kenyon Brabrook Limited

**Report prepared by Melvin Kenyon for Amanda Barlow, Monitoring
Officer, Torbay Council – 13th December 2024**

Investigation Report – Torbay Council

Complaint by Anne-Marie Bond against Cllr Katya Maddison

1. EXECUTIVE SUMMARY

1.1 BACKGROUND

On 20th June 2024, Melvin Kenyon, of Kenyon Brabrook Ltd (“the Investigator”), was commissioned by the Monitoring Officer of Torbay Council (“the Council”) to carry out an investigation into a Standards Complaint that had been received about alleged breaches of the Torbay Council Code of Conduct for Members (“the Code”).

This report (“the Report”) deals with the investigation (“the Investigation”) of the Standards Complaint, which was made by Anne-Marie Bond, the Chief Executive of the Council (“the Complainant”), against Cllr Katya Maddison (“the Subject Member”).

1.2 BRIEF SUMMARY OF THE COMPLAINT

On 16th May 2024 the Governance Support Team at the Council received a Standards Complaint (“the Complaint”) on the Council’s official Complaint Form. The allegations in the Complaint were that, immediately after the Annual Meeting of the Council which was held at the Riviera International Centre in Torquay earlier that same day, Cllr Katya Maddison had come face to face with Anne-Marie Bond and spoken disrespectfully towards her and that, later that day, Cllr Maddison had made disrespectful remarks on a Facebook post which were directed towards the Council’s Governance Support Team, the Chief Executive and her Senior Leadership Team, and the Council itself.

We discuss the Complaint in detail in Section 5 below.

1.3 CONCLUSIONS AND RECOMMENDATIONS

We conclude, based on the balance of probabilities and the evidence available to us, that:

1. **Cllr Katya Maddison was acting in her capacity as a Torbay Councillor both when she encountered Anne-Marie Bond in the Riviera International Centre on 16th May 2024 and later the same day when she made a Facebook post about events at the Annual Meeting and about the Council and its officers. The Torbay Council Code of Conduct is therefore engaged.**
2. **Cllr Maddison did not breach any of the paragraphs of the Torbay Council Code of Conduct for Members as a result of her behaviour at the end of the Council’s Annual Meeting which was held at the Riviera International Centre on 16th May 2024.**
3. **Cllr Maddison breached two paragraphs of the Torbay Council Code of Conduct for Members as a result of making a Facebook post that related to the Council’s Annual Meeting on 16th May 2024 later on the day of the meeting. She breached paragraph 4.2 (a) of the Code – “You must treat others with courtesy and respect” - in that she failed to treat officers with courtesy and respect. She also breached paragraph 4.3 (h) of the Code - You must not conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into**

disrepute - in that she conducted herself in a manner that brought the Council into disrepute.

4. Cllr Maddison did not breach paragraph 4.3 (a) of the Code – You must not bully or harass any person.

On the basis of the conclusions above we make the following recommendation:

1. That the Monitoring Officer acts in accordance with the relevant paragraphs of the Protocol for the Assessment and Determination of Allegations of Breaches of the Members Code of Conduct.

2. OFFICIAL DETAILS OF SUBJECT MEMBER

Cllr Katya Maddison was elected to the Council as a Conservative councillor for the Shiphay Ward on 4th May 2023. She told us that she and another councillor, Cllr Patrick Joyce, who had also been elected in May 2023, quickly decided to leave the Conservative Group and formed a new group called “Prosper Torbay”. A News Release by the Council announcing this change was published on 26th October 2023. Following the unexpected death of Patrick Joyce on 12th April 2024, the Prosper Torbay Group dissolved. Cllr Maddison now sits as an Independent.

The Council website states that Cllr Maddison is a member of the Audit Committee and that she serves on the Review of Events, Culture and Tourism Task and Finish Group. She is also the Member Champion for Culture.

Cllr Maddison signed her Declaration of Acceptance of Office on 9th May 2023. In doing so she agreed to the statement “I undertake to observe the code as to the conduct which is expected of members of Torbay Council”

3. RELEVANT LEGISLATION AND PROTOCOLS

3.1 LOCALISM ACT 2011

Under section 27(1) of the Localism Act 2011 (“the Act”) a “relevant authority” (which includes a local council) is placed under a statutory duty to “promote and maintain high standards of conduct by members and co-opted members of the authority”.

Under section 27(2) of the Act a relevant authority “must in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity” (see 3.3 below).

Under section 28(1) of the Act a relevant authority must secure that a code adopted by it is, when viewed as a whole, consistent with the prescribed Principles of Standards in Public Life – the so-called “Nolan principles”.

The intention of the legislation is to ensure that the conduct of public life in local government does not fall below a minimum level which endangers public confidence in democracy.

Under section 28(6) of the Act, principal authorities must have in place (a) arrangements under which allegations can be investigated and (b) arrangements under which decisions on allegations can be made. By section 27(7), arrangements put in place under subsection (6)(b) must include provision for the appointment by the principal authority of at least one “independent person” whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate.

Section 28(11) of the Act provides that if a member or co-opted member of the authority has failed to comply with its code of conduct it may have regard to the failure in deciding (a) whether to take action in relation to the member or co-opted member and (b) what action to take.

3.2 TORBAY COUNCIL CODE OF CONDUCT FOR MEMBERS

Under Section 27(2) of the Localism Act the Council has adopted the Torbay Council Code of Conduct for Members. The Council revised its previous (2012) Code of Conduct in the light of the publication, in late 2020, of the Local Government Association (LGA) Model Code of Conduct and adopted a revised Code at the Full Council Meeting of 25th February 2021 (Minute 196 refers).

The Code deals with the conduct that is expected of members and co-opted members of the Council when they are acting in that capacity as required by Section 27 of the Localism Act.

The Code is intended to be consistent with the Principles of Public Life. These are referred to in Part 1 of the Code, under the heading “General Provisions – Public Duty and Interests: An introduction” and are attached as Appendix A to the Code.

The Code applies whenever a person is acting in their capacity as a member or co-opted member of the Council. In Part 1 of the Code, under the heading “Application of the Code of Conduct”, the Code says, “You must comply with this Code whenever you are acting in your capacity as a member when: (a) you are engaged on the business of the Council; or (b) you behave so as to give a reasonable person the impression that you are acting as a representative of the Council or in your capacity as a member”. Please see Section 3.3 below.

A document entitled the “Guidance on Local Government Association Model Councillor Code of Conduct” provides “supporting guidance which is aimed to help understanding and consistency of approach” towards the LGA Model Code. We reference this document in Appendix 1 below and refer to it in the Report as “the Guidance”. It helps us apply a consistent approach to the investigation of standards complaints even when the Authority concerned has not adopted the LGA Model Code.

We have referred to the Torbay Council “Protocol for the Assessment and Determination of Allegations of Breaches of the members Code of Conduct” which we refer to in the Report as “the Arrangements”. The Protocol “sets out the procedure for submitting a complaint alleging that a member has breached the Code of Conduct and the procedures that will be followed in dealing with such complaints. It also sets out the criteria for assessing a complaint.”

3.3 WHEN DOES THE CODE OF CONDUCT APPLY?

Under section 27(2) of the Act a relevant authority “must in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity”. This section of the Act narrowed the remit of the previous national Code of Conduct with the result that a council can only investigate matters where a member was acting as a councillor or as a representative of the council at the time of the alleged incident.

Conduct that might be regarded as reprehensible and even unlawful is not necessarily covered by a code of conduct; a link to that person’s membership of their authority and specifically their role as a councillor is needed.

Some activities clearly have no link with the council such as a purely domestic matter or something that a member may do while employed in work completely unrelated to the council. *Councillors must actually be engaged on council business or commenting on council business or acting as a representative of the authority to be deemed “within capacity”.*

4. CONTEXT

4.1 TORBAY

Wikipedia tells us that “Torbay is a unitary authority with a borough status in the ceremonial county of Devon, England. It is governed by Torbay Council, based in the town of Torquay, and also includes the towns of Paignton and Brixham. The borough consists of 24.27 sq mi of land around the east-facing Tor Bay, part of Lyme Bay on the English Channel. [Torbay is a] popular tourist destination, [with] sandy beaches, mild climate and recreational and leisure attractions.

“Since 1998 the council has been a unitary authority, being a district council which also performs the functions of a county council; it is independent from Devon County Council It is based at the Town Hall in Torquay.”

4.2 TORBAY COUNCIL ELECTION - 2023

Wikipedia further tells us that “The 2023 Torbay Council election was held on 4 May 2023 to elect members of Torbay Council in England. It coincided with local elections across the United Kingdom.

“Before the election, the council was controlled by a coalition between the Liberal Democrats, with 12 seats, and Independents, with 10 seats. The largest party was the Conservatives with 13 seats. There was one vacancy.

“Torbay, along with Wyre Forest, were the only two councils gained by the Conservatives. Conservative leader David Thomas was appointed leader of the council at the subsequent annual council meeting on 16 May 2023.”

Immediately after the election, according to Wikipedia, the Conservatives held 19 seats, the Liberal Democrats 15 seats and Independents 2 seats, which put the Conservatives in control of the Council.

4.3 COUNCIL ANNUAL MEETING 16th MAY 2024

The context for and background to the Complaint was the Council’s Annual Meeting (AGM) which took place at the Riviera International Centre in Torquay on 16th May 2024. The proceedings of the Annual Meeting can be viewed on YouTube and are referenced in Appendix 1.

Anne-Marie Bond, the Chief Executive, told us, “Our Constitution sets out a variety of decisions that need to be made at the AGM, but the most significant decision is the appointment of the Civic Mayor for the coming municipal year.”

She said, “[W]e had had a change in political control as we approached the decision on who would be Mayor Elect. [After the May 2023 election] we had been an overall majority Conservative Administration but then two councillors – Cllrs Patrick Joyce and Katya Maddison – left the Conservative Group. This means we moved into No Overall Control with a Conservative minority Administration. The two councillors formed a new group called Prosper Torbay in October 2023.

“We did a lot of work on how we would make a No Overall Majority Administration Council work. Lib Dem colleagues advised that they wanted more equality of positions on Council committees This had played out at a challenging December [2023] Council Meeting. Subsequently, the Lib

Dem and Prosper Torbay groups acted together and indicated that they wished to take the Civic Mayor role. The Leader of the Council acquiesced in this. I believe this was likely as a result of him realising that he could not win a vote but also wishing to show that he wanted to work together with the other groups. So, he seconded the proposal for [Lib Dem] Cllr [Swithin] Long's nomination as Mayor Elect in February. The vote was unanimous."

As already noted in Section 2 above, Cllr Patrick Joyce, Cllr Maddison's fellow Prosper Torbay councillor, unexpectedly passed away on 12th April 2024. As a result, if a Conservative councillor were to be elected in the by-election that resulted from Cllr Joyce's death, that left open the possibility that the Conservatives would have 18 members in a 36 member chamber. That meant that, with the Mayor having the casting vote, in the words of Anne-Marie Bond, the Mayor became an "... incredibly powerful figure. It means that if voting proceeds along party lines, then the Administration requires the casting vote of the Civic Mayor in order to achieve their outcomes."

As a result of the political opportunity that had now arisen the Conservatives withdrew their support for Cllr Swithin Long a few days before the Annual Meeting. Cllr Katya Maddison told us, "None of what happened was a surprise. The Opposition knew Cllr David Thomas was going to renege on his publicly given support for a LibDem Mayor a couple of days before the meeting."

These events therefore set the scene for what happened at the Annual Meeting. Our own review of the video record of the Annual Meeting and ancillary information led us to conclude that the following had happened during and after the Annual Meeting:

- (i) The first substantive motion at the Annual Meeting involved Cllr Katya Maddison proposing Cllr Long as Mayor. She referred to cross-party agreement having been reached months ago with the Leader of the Council supporting the nomination before going on to attack the Conservatives for bad faith, a "casual renegeing on a commitment", and an absence of integrity.
- (ii) Cllr Swithin Long spoke, then Cllr David Thomas (who spoke of the role of the Deputy Mayor as an apprenticeship), then Cllr Steve Darling; then Cllr Cowell; then Cllr Maddison spoke again (echoing some of the things she later said in her Facebook post later that day and attacking the Conservatives).
- (iii) The motion was defeated by 17 votes to 16 (Someone in the Chamber said "Shame on you" at the end of the vote).
- (iv) The motion proposing the Deputy Mayor followed. The vote was tied at 17:17 with the Mayor using his casting vote to vote the proposal down.
- (v) After that motion was defeated Cllr Thomas proposed the meeting be adjourned to 20th June until after the by-election in Wellswood (caused, as noted already, by the death of Cllr Patrick Joyce).
- (vi) Following an adjournment, during the vote on Cllr Thomas's motion, all Opposition councillors walked out (amongst the first appeared to be Cllr Maddison).
- (vii) The motion was carried (17:2 & 15 absent) and the meeting was indeed adjourned until 20th June.
- (viii) On 6th June the Conservative candidate, Hazel Foster, was elected in the Wellswood by-election by 9 votes.
- (ix) On 18th July, Cllr Hannah Stevens a Conservative and formerly the Deputy Mayor was elected as Mayor, though Opposition councillors apparently abstained.

5. SCOPE OF THE INVESTIGATION

We used the Complaint as set out on the Council's Complaint Form to define the scope of the Investigation. We have presented the text below at Section 5.1. The Facebook post referred to in the Complaint can be found at Section 7.2.1 below.

5.1 COMPLAINT

The Council's Complaint Form which was completed by Anne-Marie Bond reads (sic):

What do you allege the member did wrong? (State specifically what the member said/and or did).

"I attended the Annual Meeting of the Council in my capacity as Chief Executive of Torbay Council. It is my duty as such to advise the meeting, without fear, favour or agenda.

As the meeting ended, I followed the Civic Mayor to his retiring room. Outside of the room there were a large number of Councillors, a member of the press and some members of the public. They were congregated in small groups. The Mayor and Deputy Mayor were the recipients of a number of comments from those congregated.

Just as I got to the door, to the left of it, Cllr Maddison stood with Cllr Amil. At this point Cllr Maddison said 'shame on you Anne-Marie,' I stopped and said to Cllr Maddison 'Sorry Cllr Maddison, what did you say?' to which she responded 'shame on you Anne-Marie.' I did not engage further to challenge Cllr Maddison as to what she had said, believing that it was inappropriate to engage further at that point, and I proceeded into the Mayor's retiring room.

I have considered whether it would be more appropriate to meet with Cllr Maddison privately to discuss my concerns in respect of her comments, however as Cllr Maddison challenged my integrity in public, I believe that the most appropriate action is to formalise this complaint.

Mid way through writing this complaint as to Cllr Maddison's public remark at Annual Council, I have been made aware of a comment that made by Cllr Maddison on Facebook, on a profile that is open to anyone to view and indeed the person's profile has 1317 friends meaning that at least this number of people will have easy access to her comments. Her comment reference officers in two respects;

- (1) 'Governance Support – which I've christened Conservative Support'*
- (2) 'Torbay Council is a sick institution and certain leading council officers are at the heart of it.' Given her remark at Annual Council, I have no doubt that her reference is in respect of me and my Senior Leadership Team.*

Which paragraph(s) of the Members' code of conduct and / or Protocol do you say have been breached?

"4.2(a) Treat others with courtesy and respect.

4.3(a) Bully or harass any person

4.3(h) Conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute"

What is your evidence for alleging a breach? (Set out below the specific evidence and write on additional sheets if necessary. Attach copies of any relevant correspondence papers, documents, which you say support your allegations).

4.2(a) Treat others with courtesy and respect

Evidence : remark made

By making her remark to me in a public setting, Cllr Maddison subjected me to personal remark/comment and attack.

Evidence : facebook comment

- (1) By commenting on facebook, and as the Council's most senior officer, and when linked with her public remark at annual council, Cllr Maddison has subjected me to personal remark/comment and attack. More widely, on behalf of the Council's Leadership Team, she has subjected us as a team to personal comment and attack.*
- (2) By commenting of facebook as to the Governance Support team, she has subjected the officers of that team to personal comment and attack.*

4.3(a) Bully or harass any person

Evidence : remark made

By making her remark to me in a public setting Cllr Maddison humiliated, denigrated and injured my reputation.

Evidence : Facebook comment

- (1) By commenting on facebook, and as the Council's most senior officer, and when linked with her public remark at annual council, Cllr Maddison has subjected me to humiliation, denigration and has injured my reputation. More widely, on behalf of the Council's Leadership Team, she has subjected us as a team to humiliation, denigration and has injured our collective reputation.*
- (2) By commenting of facebook as to the Governance Support team, she has subjected the officers of that team to humiliation, denigration and has injured their collective reputation.*

4.3(h) Conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute

Evidence : remark made

By making her remark to me in a public setting, Cllr Maddison has undermined my impartiality and professionalism and as such has brought the Council into disrepute.

Evidence : Facebook comment

- (1) By commenting on facebook, and as the Council's most senior officer, and when linked with her public remark at annual council, Cllr Maddison has undermined the impartiality and professionalism of officers and as such has brought the Council into disrepute. More widely, on behalf of the Council's Leadership Team, she has undermined our impartiality and professionalism and as such has brought the Council into disrepute.*

- (2) *By commenting of facebook as to the Governance Support team, she has undermined their impartiality and professionalism and as such has brought the Council into disrepute.*

Are there any witnesses who can corroborate what you say? If so, set out their names below and write their contact details on the attached form.

“Cllr Amil was stood with Cllr Maddison as she made her remarks to me.

As I was bringing up the rear of the Mayoral party, those with me, i.e. Cllr Spacagna, Cllr Stevens and Cllr Brook I do not believe heard Cllr Maddison’s remark, however upon entering the room, I was so shocked I immediately told them what had occurred.”

5.2 CLLR KATYA MADDISON – RESPONSE TO THE COMPLAINT

We have been provided with a copy of an email that was sent by Lisa Antrobus to Cllr Katya Maddison on 21st May 2024. A letter to her from Amanda Barlow, the Monitoring Officer and Head of Legal Services, was attached to the email along with a copy of the Complaint Form and a screenshot of the offending Facebook post.

In the letter Amanda Barlow wrote, *“Prior to completing my initial assessment on the allegations, I would like to give you the opportunity to respond to the allegations contained therein.*

If I have not received a response from you by 27 May 2024, I will determine that you do not dispute the above allegations and will determine my initial assessment based upon the evidence provided by the complainant.”

Lisa Antrobus sent a second email to Cllr Maddison on 21st June 2024. A second letter from Amanda Barlow was attached to the email. In the letter she wrote, *“As you have not provided a response to the allegations, in accordance with the Local Protocol for the Assessment and Determination of Allegations of Breaches of the Members Code of Conduct I have resolved that the matter will be referred for investigation to determine whether there has been a breach of the Code of Conduct and the seriousness of that breach, if found to have occurred.”*

It therefore appears that Cllr Maddison did not take the opportunity that was formally offered to her to comment on the Complaint.

5.3 ALLEGED BREACHES OF THE CODE

Based on the above, therefore, it appeared possible that Cllr Katya Maddison had breached the following paragraphs of the Code:

- Paragraph 4.2 (a) You **must** treat others with courtesy and respect;
- Paragraph 4.3 (a) As a Member You **must not** bully or harass any person; and
- Paragraph 4.3 (h) As a Member You **must not** conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.

6. APPROACH

6.1 DOCUMENTS AND OTHER SOURCES

We have taken reasonable steps to list at Appendix 1 the source materials we specifically reviewed during the Investigation (though we do not guarantee that the list is exhaustive). The source materials listed there, the summaries of our formal interviews and the material directly referenced in the Report together formed the evidence base we considered during the Investigation.

6.2 FORMAL INTERVIEW METHODOLOGY

In investigating the Complaint we gathered evidence at formal interview from the following people (listed in the order in which we interviewed them).

- (i) Anne-Marie Bond – Chief Executive, Torbay Council (Complainant);
- (ii) Cllr Nicole Amil – (Independent) Torbay Councillor, Cockington with Chelston Ward;
- (iii) Cllr Katya Maddison – (Independent) Torbay Councillor, Shiphay Ward (Subject Member)

We carried out the interviews between 31st July and 12th September 2024. We spoke to all interviewees using the Zoom video communications platform.

By agreement we recorded all the interviews. In each case we produced written summaries of our interviews. All interviewees were offered the opportunity to comment on the written records whilst they were still in draft and any relevant comments made were reflected in the final written summaries, which were then agreed and “virtually” signed off by all interviewees.

Once the written records had been agreed by interviewees they became the formal record of the interview and the video/audio recordings, and any written notes taken at interview, were destroyed by us in accordance with best practice. We made this clear to all interviewees at the outset of each interview and all interviewees agreed to proceed on that basis. All interviewees were also made aware (and agreed) that parts of the written interview records may be included in our Draft and Final Reports and that, in the event of a Standards Hearing or equivalent, they may be called as witnesses.

On 8th August 2024 we also asked Cllrs Martin Brook, Mark Spacagna, and Hannah Stevens for comment by email on the events that allegedly took place at the Riviera Centre as the Mayoral Party was retiring after the Annual Meeting on 16th May 2024. They replied between 8th August and 25th September. They too were told that any answers they provided might be quoted in the Report.

It appeared to us that some of those we interacted with during the Investigation at times showed a lack of engagement with the Investigation. As a consequence the Investigation took several weeks longer than we anticipated when we prepared our proposal to carry out the work. Delay persisted even after the publication of what turned out to be the first of two Final Reports. We were asked by the Council’s Monitoring Officer to expand on the cause of these delays, and in this regard, we have attached some information in Appendix 2.

6.3 THE REPORT

After we had completed the preliminary draft of the Report it was peer-reviewed for quality and to ensure consistency of approach with similar cases across the country.

Following that peer review, we shared the Draft Report with the Monitoring Officer with the expectation that necessary steps would be taken to ensure that, on its face, the Report was indicative of a satisfactory investigation and was of the required standard. The Monitoring Officer had no concerns in that respect. We recommended that the Draft Report be shared with one of the Authority's Independent Persons (IP) and that they be asked for any comment they might wish to make. This recommendation was undertaken, and the IP's comments can be found at Appendix 3.

We then shared the Draft Report, with draft conclusions and recommendations, in confidence with the Complainant and the Subject Member and received responses from both. Substantive comments made as a result of that consultation are presented in Appendix 4. We then submitted our Final Report containing our final conclusions and recommendations to the Monitoring Officer, for her consideration and action in line with the Council's Arrangements.

Some days later, following interactions between the Monitoring Officer and the Subject Member, the Subject Member was given further time in which to comment on the Final Report that had been issued on 28th November. The extension was granted to correct a wrongly given remit of the additional Independent Person's role requested by and provided to Councillor Maddison, to ensure that she was not disadvantaged in the investigation, arising out of that error.

The Subject Member subsequently sent us a lengthy response to the (first) Final Report. Rather than include her entire 23 page response in the Report, we have opted to set out the Subject Member's summary of her arguments in Appendix 5 below. The words are the Subject Member's, and we have reproduced them without comment there.

We considered some of the detailed content in the 23 page response to be beyond (sometimes well beyond) the scope of the Investigation and therefore inappropriate for inclusion in the Report. Our commission was simply to establish whether or not the Subject Member breached the Code rather than to conduct a deep dive into the inner workings of the Council or to make judgements on those inner workings and the motivations of those involved. Nevertheless we read the Subject Member's response in detail and now reissue the Final Report (this document) dated 13th December with a few changes.

Note: Henceforth, unless otherwise stated, all dates that follow in the Report are from 2024.

7. FINDINGS – THE COMPLAINT

We now set out our findings and divide them into two parts.

We begin with our findings in connection with the alleged events at the Riviera International Centre when Cllr Katya Maddison encountered Anne-Marie Bond as the Mayoral Party was withdrawing into the Retiring Room at the conclusion of the Annual Meeting on 16th May.

We then set out our findings in connection with the Facebook post allegedly made by Cllr Katya Maddison later the same day.

7.1 ENCOUNTER IN THE RIVIERA INTERNATIONAL CENTRE

7.1.1 ANNE-MARIE BOND

After discussing what happened at the Annual Meeting with Anne-Marie Bond, we asked her to tell us what happened after the meeting closed. She replied, “When the meeting ended I followed the Civic Mayor to his retiring room. It’s only at AGMs that I do that. Normally I stay in the Chamber when the Mayor and Deputy Mayor retire. We were on the stage and had to go down a short slope. There is a short walk on the flat before you turn out of the room through what is also the main exit from the room. There is then a short walk of maybe three metres to a door on the right which leads into what is actually a closed bar. That room is used for the Mayor’s retiring room.

“The area outside the retiring room was where the councillors who had left the room and some members of the public who had been in the gallery had congregated. There were maybe 20 or more people gathered together in what is quite a confined space. I think that when the Lib Dem councillors left during the vote, so too did their supporters in the public gallery.

“As we were walking - quickly - towards the door into the retiring room, I could see Cllr Maddison and Cllr Amil there amidst the throng of people. They appeared to be talking to one another. I was behind the Mayor and Deputy Mayor. As they walked through there were several shouts of “shame on you” from those who were there, though I couldn’t tell you who those came from. It was an intense situation.

“Then, as I was about turn and walk through the door into the retiring room, Cllr Maddison said, “Shame on you, Anne-Marie”. Her remark was very specifically directed to me. Had she not used my name I would have assumed she was making a more generalised comment, but it was clearly aimed at me. I paused and said, “Sorry Cllr Maddison, what did you say?” I was almost hoping I had misheard her. She repeated the remark and again said, “Shame on you Anne-Marie”. I was shocked, speechless and angered by what she had said.

“I made a conscious decision in the moment not to challenge Cllr Maddison in front of others in what was a wider public setting and instead went into the retiring room. However, I very nearly didn’t do that because, in that split second, I was so shocked, horrified and angered. However, I’m glad that I took the decision I did. I have never been spoken to like that and have never faced such an insinuation.

“I probably shouldn’t have done it, but I was so shocked that I told the others in the room - Mark Spacagna, Hannah Stevens and the mace bearer, Martin Brook. I said something along the lines of, “You won’t believe what just happened ...” I am not sure that they would have heard what

Cllr Maddison said because they were ahead of me, and she made the remark literally as I was turning into the door. I was the last person to go through and they were entering the room in front of me. However, I haven't spoken to them and actually asked whether they heard what she said."

Asked why Cllr Maddison might have said what she said, Ms Bond replied, "Cllr Maddison was a brand new councillor in May 2023. It is not uncommon that new councillors don't understand local government, and that's understandable. In her case we had used our best efforts to get her up to speed and there had been an intense induction programme. I could only think at that point that, despite our efforts to educate her in the ways of local government, she felt that I should have stopped the meeting and advised the Conservative group to vote in a different way.

"There had been a procedural point during the meeting. When there is motion to adjourn our Constitution provides that there is no debate, and we go straight to the vote. I think you will see on the video recording of the meeting that there was a question from, I think, Cllr Darling as to why we couldn't debate the matter. In response I advised the meeting that the Constitution provides that there is no debate. I wondered at the time whether her comment was related to that in some way and whether she thought that my advice was incorrect and that a debate on the motion should have been permitted.

"Subsequently in one of our monthly meetings, Cllr Nicole Amil, who is the Deputy Leader of the Independents, told me that no-one else apart from her and Cllr Maddison would have heard what she said to me. So that certainly suggests that she heard what was said."

7.1.2 CLLR KATYA MADDISON

When we asked Cllr Katya Maddison about events after the Annual Meeting she told us the following, "None of what happened was a surprise. The Opposition knew Cllr David Thomas was going to renege on his publicly given support for a LibDem Mayor a couple of days before the meeting. That knowledge enabled me to plan my speech with that in mind. To a degree, therefore, the meeting was theatrical. It was suggested by our new MP, Cllr Steve Darling, who was Leader of the Lib Dem Group, that I propose Cllr Swithin Long as Mayor and I agreed. I saw that as an opportunity to point out how I thought the Leader of the Conservative Group was getting things wrong and behaving badly. So, I did that.

"I don't recall how it came about that the Opposition left the Council Chamber (that wasn't planned or theatrical). In fact, the first people to walk out were members of the public. I do recall that it was someone in the Public Gallery who first said, "Shame on you" as members of the public left.

"We left the Chamber and walked into what is a small, confined space at the bottom of a set of stairs with various doors leading in and out. We stood about muttering, sort of wondering what to do next. People were upset. They obviously weren't shocked at the outcome, but tensions had risen. There was a journalist there too. We definitely weren't there to ambush anyone. We were just there. I didn't actually know that the room where the Mayor got robed and disrobed was where it was.

"The Mayoral party then came through the door, led by the Macebearer. Then came Anne-Marie. One of the quietest places can actually be in the middle of a busy crowd. All I said to Anne-Marie

was “Shame on you Anne-Marie”. Three words over two seconds. My language was entirely polite. I spoke quietly in a low, conversational tone for her ears only. I had a reasonable expectation of privacy because everyone was busy talking. The reference to my speaking to her “in public” is misleading. There was no malevolence. I had the same demeanour and tone as I would have had had I been saying to her that there was someone waiting for her in her office.

“No one heard what I said. She asked me – “What did you say?”- to repeat my words, and I did so and said, “Shame on you Anne-Marie” for a second time. Cllr Nicole Amil heard me repeat what I had said. By saying what I said I was telling Anne-Marie that something wasn’t right. She may have been sensitive to what I said, but what harm was done? I was using words that had already been used by many others in the Chamber, including Opposition politicians and members of the public. It wasn’t that I was waiting to say it to her, and it was the first time she had heard it. She showed no curiosity, did not ask why I had said what I had said and went into the room.

“Anne-Marie may have been sensitive to what I said, but there was no way for me to gauge any specific sensitivity in the context of the day’s events, and there was no aggression in the delivery. There is also, and separately, the requirement to gauge the degree of harm caused by these three words delivered quietly, again in the context of events, and also weighed against the right, and indeed the responsibility of councillors to speak their truth to officers. I believe it was an appropriate comment, and I would happily have explained it, if I had been asked to. Clearly, Anne-Marie understood the point I was attempting to make.

“When I said it, I was thinking of partisanship. A lot had just happened which could have been avoided had the Chief Executive not been set on a course that she was already set on. I checked with her when we met later whether advising Councillors against courses of action that might bring the Council into disrepute was part of her remit. She confirmed that it was. Anne-Marie failed to prevent the Leader from reneging on a publicly given promise. She was therefore part of a process that brought shame on the Council.

“An unprecedented constitutional hiatus followed the AGM. The Mayoral appointment was deviated on the strength of a dubious casting vote. These actions left the Council in an uproar that was publicly available for anyone to see. Councillors were unable to conduct committee business. We had to stop. The new Municipal Year had not started properly. Then, in turn, a KC had to be brought in incurring costs and officers were prevented from conducting elements of their business requiring emergency measures to be implemented.

“All of this by the way was material enough in itself to have the potential to cause the Chief Executive to feel emotional. I say that because I said only three words. So, if you are emotional already, what is the additional harm done by that two second set of words? There was no swearing or anger on my part. No element of it could be described as offensive other than she says it was said in public. But it was by her solicitation. I find the fact that she went into that room where the others had gone and asked them whether they had heard what I had said to be highly suggestive. She sensed an opportunity, in my view.

“They didn’t hear what I said. They were already in the room. The door was shutting or was already shut. That was what Anne-Marie said in her statement. If any of the other three were to say that they heard what I said I would be absolutely shocked and say that it wasn’t true. It can’t be true. I certainly don’t think Cllr Martin Brook would say that, though I could see the ex-Mayor

saying it. Nicole Amil heard it because she walked up at the point that Anne-Marie asked me to repeat it. I myself didn't see Nicole as I spoke.

"I don't think that I breached the Code of Conduct by saying what I said. I think it is entirely appropriate for councillors to communicate with officers when they think something is wrong. That is what I did. There was no formal way of expressing my opinion available to me. All earlier efforts had failed. I didn't plan to say what I said. But what I said was directed at her. It was relevant.

"It could not have been shocking or alarming to her because loads of others had used the same words a few minutes earlier. The words weren't new to her. Where was the harm? I do accept, though, that what was said in the Chamber was more likely directed at the Conservatives, or the entire Council or the situation as a whole rather than at Anne-Marie in particular. I do, however, think it was relevant to her and that was why I said it. It is inconceivable that she wasn't part of the planning of the meeting and therefore knew what was going to happen."

Asked by us whether she would really have expected Anne-Marie to intervene in a political process, Cllr Maddison responded, "Yes. I asked her whether she had a role in preventing the Council from being brought into disrepute. And she said she did though she also said that she might not be listened to. Given the other prejudices I have already explained to you I think I had reason to believe she had behaved in a prejudiced way and could have done better to prevent what happened actually happening.

7.1.3 CLLR NICOLE AMIL

Asked to tell us what happened after the AGM, Cllr Nicole Amil said, "There is only really one door through which you would leave the Chamber. The Riviera Centre is a Conference Centre rather than a purpose built Council building. As you leave the Chamber there is a sort of lobby area and there isn't a lot of space until you leave the building itself. Nobody was leaving the building because there was at least the possibility that we may have been required to go back into the Chamber. That was why members were congregating there.

"As you leave the Chamber, there is a room on the right that is normally a bar area, I think, that was used on that day by the Mayoral Party as a retiring room. As the Mayoral Party was going into that room I heard Anne-Marie Bond ask Cllr Maddison, who is quietly spoken, to repeat something she had apparently just said to her. Anne-Marie spoke in an authoritative voice, as she usually does. Her tone appeared somewhat confrontational. She said something like, "What did you say? Would you repeat that Cllr Maddison?"

"I didn't hear what Cllr Maddison allegedly said first time around. It was on that second occasion that I was close enough to hear what she said, which was "Shame on you, Anne-Marie". No-one else heard that because there was a lot going on and there was lots of movement. It is beyond question that it was not said in public. Cllr Maddison did not raise her voice. She speaks in a quiet, level voice. I wouldn't have heard it if I had not been stood close by. It was only because Anne-Marie drew attention to it by asking Cllr Maddison to repeat herself that I heard it at all. I wondered what I had missed!"

Asked whether she thought that what Cllr Maddison said was justified, Cllr Amil said, "In my opinion it wasn't unreasonable. The Chamber had been full of people including members of the

public who were saying, “Shame on you”. They were alluding to the change of mind by the Conservatives, their reneging on their decision. Katya was just sharing her thoughts. It’s not an unusual phrase. It’s a phrase that people use. Those words were in everybody’s mind. She was emotional. I don’t think any consideration has been given to the fact that she had lost her colleague just a few weeks before. It was nothing about Anne-Marie’s reputation. She is the Chief Executive. Perhaps she is being too sensitive. Cllr Maddison wasn’t trying to diminish her reputation in any way. She wasn’t trying to embarrass her, and she didn’t say what she said in public. I am the only person that heard it.

“Cllr Maddison is very open and very clever. She moved into the area pretty recently and has only been a local councillor for a relatively short time. She had an interesting career and background. She has an awful lot to offer Torbay. She wants to change things, she wants to improve the Council culture, she wants greater transparency and good practice. But, of course, you don’t change things overnight and a lot of officers are resistant to change and want to manage things in the way that they want to manage them.

“The Council culture is very different to many other cultures. I think that must lead to frustration on her part, especially after she left the Conservative Group and found herself somewhat marginalised as one of two members of Prosper Torbay. And, of course, she is now on her own and even more marginalised. I think the Chief Executive and other senior officers see her as rather a challenge. I think Anne-Marie is a very good Chief Executive. I like her. I have known her for many years before she became Chief Executive. I think Cllr Maddison likes working with her too.”

We then asked why the comment should be directed at Anne-Marie, she was after all meant to be above all this. Cllr Amil replied, “Yes, a Chief Executive is *meant* to be above it all – though I do accept that she has to work with the Administration, whoever it is. For the last 17 years I have always been in the ruling Administration though now I’m not. I find it different as a backbencher.

“We didn’t position ourselves where we did, Anne-Marie just happened to walk by and was in close contact. As Chief Executive she could perhaps have handled the meeting in a different way and should have maybe foreseen the organisational mayhem that ensued. She could have reminded the Conservatives that the reputation of the Council was at stake and would be impacted by what they did on that day. There seemed to be a lot of smirking and whispering by the Mayoral party. They didn’t seem to know how to handle it. It would have been better to call for an adjournment before people walked out. As the Chief Executive she could have taken the necessary action. That’s what you do sometimes when there is a contentious issue. It allows people to reassess the situation and count to ten.

“Far too much has been made of this. Certainly in the past when I worked as a senior officer at the Council I have been spoken to by members in that way. I cannot believe, when there are so many pressing and important issues, that we're talking about this three months after the event.”

7.1.4. OBSERVATIONS GATHERED BY EMAIL

We wrote by email to the three members of the Mayoral Party who had proceeded, apparently in front of Anne-Marie Bond, into the Retiring Room after the Annual Meeting had concluded. We asked them what they recalled about what was said by Cllr Katya Maddison and Anne-Marie Bond.

7.1.4.1 CLLR MARTIN BROOK

Cllr Martin Brook wrote the following (sic), “I did hear Cllr Maddison say "shame on you" to the CEO as myself, the Mayor, and herself were retiring to the Mayor's room. The situation was indeed rather intimidating and hostile. Around the door were all Liberal Democrat members, who had walked out of the chamber and were waiting outside the door to the Mayor's room.

“Cllr Maddison joined the situation, having stayed initially in the chamber where she had been remonstrating other councillors. She said some rather derogatory remarks about my faith in anger, after she said the words to Anne-Marie Bond.

“On retiring into the room there was a general discussion about the shock of Cllr Maddison's comments and how to get the Mayor out of the room as members of LDs and INDs remained outside. The Mayor didn't want to leave in case of a further hostile reception.

“As the mace bearer, whilst a Civic role, I have taken onboard the theoretical protection of the Mayor. Over the preceding months that has been via encouragement and support as the Mayor had been subjected to vile on-line abuse and aggression. In this scenario it involved finding a way out of the room and away from further abuse. We waited sometime in the room before leaving via an alternative route.

“Votes had been made in the chamber to simply reverse, in our Conservative opinion, previous votes by the opposition; their votes in Dec23 and Feb24 effectively overturning the Electorate Decision in May 2023 Council Election to put a Conservative Administration instead of LibDems and Independents with the opposition effectively running the council from the outside in from Dec23. Cllr Maddison's statement to Anne-Marie comes in a context of a total disrespect of a Full Council meeting, how it is run, and the high expectations that residents require of all leaders.”

7.1.4.2. CLLR MARK SPACAGNA

Cllr Mark Spacagna wrote in reply (sic), “I can confirm that I heard Cllr Maddison say “shame on you Anne-Marie” on both stated occasions. When we were shut in the Mayoral room, all that was mentioned by Anne-Marie was total shock that an elected member (Cllr Maddison) would openly say such a thing.”

7.1.4.3. CLLR HANNAH STEVENS

Cllr Hannah Stevens wrote (sic), “I was indeed present when these remarks were made and directed to Anne-Marie, The then Mayor of Torbay, and myself I did here councillor Maddison make the remarks directed to Anne-Marie, “shame on you Anne Marie” and then after Anne-Marie asked what she said, Cllr Maddison said the same thing “shame on you” whilst shaking her head.

“In the room, we were all quite shocked at the reception we had received by all the councillors stood by the door, including Cllr Madison. I don't think anything else was said inside. It was quite a relief especially to The then Mayor and me that this particular meeting was over.”

7.2 REMARKS MADE ON FACEBOOK

7.2.1 FACEBOOK POST

When submitting the Complaint Anne-Marie Bond attached a screenshot of a Facebook post allegedly made by Cllr Katya Maddison after the events at the Riviera International Centre. Rather than attach the screenshot, we set out the words in their entirety below. The post appears to be a reply to a post made by another person. It has no date or timestamp and reads:

“Katya Maddison [alongside a photograph of Cllr Maddison]

I think if anyone in Wellswood wants to check out the nature of the local Conservative party, they need only check out today's annual council meeting on YouTube. The local party is no different in quality to the national party - rotten. Months after agreeing publicly to nominate Swithin Long as mayor, this 17 member Conservative council group reneged on their word last minute. The Nolan principles be damned. For me it is not about who is mayor, because it is a job which does not influence policy. My problem is about people incapable of keeping to their word. Who you can trust and who you cannot. You cannot trust Conservatives and that means you cannot vote for them, because their promises to the electorate are a fiction and right now we need a generous dose of truth. What they have done today has condemned the council to months of dysfunction. Apparently they doing care.

Torbay is never going to prosper with this leadership - let me say it quite plainly. All these people care about is being “in”. Their immorality drove me and Patrick Joyce and 13 other councillors before us out of the party. Today their guidance was followed willingly by 15 other councillors, who were put in the picture and could have chosen otherwise, so I no longer feel sympathy for them. I suggest you watch it on the YouTube replay (unless Governance Support – which I've christened Conservative support - chooses to hold it back. If it's not out tonight, start asking questions).

Torbay Council is a sick institution and certain leading council officers are at the heart of it. Independents must prepare to stand forward in three years to take this terrible entropy on.”

We have so far been unable to find the post on Facebook (see paragraphs that follow) either because our Facebook skills leave something to be desired or because it has been deleted.

7.2.2 ANNE-MARIE BOND

7.2.2.1 CONVERSATION WITH ANNE-MARIE BOND

When we spoke to Anne-Marie Bond about the Facebook post she told us the following:

“Amanda [Barlow] in her role as Monitoring Officer spends a lot of her time meeting with councillors and talking to them about inappropriate use of social media. Until probably December I rarely looked at social media, though members would occasionally alert me and Amanda to posts that had been made and we would take a look at them. I wasn't looking out for anything on social media. If councillors say things about other councillors, it is for those councillors to pick it up for themselves.

“But this post was different. I was getting reports and concerns from councillors about what Cllr Maddison had posted on Facebook after the meeting. I read the post, which was made, it seems,

soon after the meeting ended. Towards the end she had written, “unless Governance Support – which I’ve christened Conservative support - chooses to hold it back”. The only word I can use to describe that is “appalling”. The Governance Support Team works tirelessly every single day to support all councillors without fear, favour or agenda. It’s bad enough saying it verbally but saying it so it’s there forever on social media with all the amendments is appalling. The post is not actually on her page at all. It’s on the page of a person called [REDACTED]. I will send you the link. In the post Katya said Torbay Council is a “sick institution” and that “certain leading council officers were at the heart of it”.

“I understand that she has worked abroad in international finance, but in my view she has struggled to comprehend fully local government. To give an example, a couple of years ago we were given some money under the Government’s Next Steps programme to deliver homes for rough sleepers. We have been beset by problems on one of those properties which we have now decided to sell and to move elsewhere.

“Katya wanted the Council to adopt an approach of “Do no harm” – which is normally a medical principle – so that, in whatever we do, we should not do harm to anyone. I tried to get into quite a deep debate with her around the fact that, as a Council, we have many roles and responsibilities, in particular supporting the most disadvantaged in society. As a result, we may, on occasion, need to make decisions for the wider good which do do some harm to some, but we do it for the overall greater good. She appeared to be unable or unwilling to accept this.

“Another example of a lack of understanding of Local Government. I have also had detailed discussions with her on transparency because she believes we aren’t as transparent as we should be. I agree that there are some improvements needed, but we do need to strike a balance, with a clear understanding of the relative roles of officers and members and who does what and when.

“[When you speak to her] I think that the “sick institution” Facebook comment will be about a lack of transparency and about her lack of understanding of how we do business. That’s why I gave the two examples earlier.

“In terms of the Governance Support being “Conservative Support” there have been other less serious posts in which she referenced officers. For example, she made a comment about the Monitoring Officer (though not by name, just by job title) and said that she was an appointment solely of the Conservative Group.”

7.2.2.2 EMAIL EXCHANGE AND SUBSEQUENT MEETING

When we spoke to Anne-Marie Bond she also said, “Because of these posts, I wrote to her about her negative references to officers on social media, how the Council has a duty of care towards them and how I thought that we were not fulfilling our duty of care towards officers as a result of her constant references on social media. I instructed her to refrain from referencing officers on social media.

“I suggested that, if she did have complaints about officers, then she should raise them formally through the Officer Member Protocol so that officers had a formal right of reply. If they were to reply to her comments on social media, then they could find themselves in breach of the Officer Code of Conduct. I offered to take her through the Officer Member Protocol if she wished. She replied that she thought a meeting would be beneficial after she returned from her holiday.

“When we spoke about this Katya could only recall the comment she had made about the Monitoring Officer. I reminded her about the reference to Governance Support as “Conservative Support”. She said she couldn’t recall that remark, and I said that it would be a matter for my Standards Complaint against her but that she *had* most definitely said that. She replied that that may be something that she would have said.”

Subsequent to our conversation Ms Bond shared with us the email she had sent to Cllr Maddison on 23rd May. It was headed “My concerns for officers” and read (sic):

“Dear Cllr Maddison

As the Council’s Head of Paid service, I write in respect of my concerns for officers. The Council as a whole, and all Councillors, owe a general duty of care towards officers. However it is my belief that your actions currently are breaching this, in particular I am concerned about your repeated negative references about officers on social media.

The Local Protocol on Member and Officer relations sets out really clearly the mechanisms for you to raise concerns about officers. It provides a clear and fair framework for all those concerned.

By contrast the reference to individual officers or to collective teams on social media is unfair, it is undermining, it causes humiliation and officers have no right of response without themselves breaching the employee code of conduct.

As a consequence of your actions I believe the Council is breaching its duty of care to officers, a situation that I cannot not allow to continue.

I therefore have to ask you to desist in making any references to officers on social media. By contrast I would encourage you to raise any concerns formally in accordance with the Member and Officer protocol, so that they can be properly dealt with. If I can provide you with any support in this regard, then do please let me know.

If you continue to reference officers on social media then I will need to determine the action required of me in order to uphold our duty of care to them. I truly hope that this will not be necessary.

Regards

Anne-Marie

Around two hours later Cllr Maddison replied and said (sic),

“Dear Anne Marie

Thank you for your email and very reasonable suggestions. I would appreciate a conversation when I return from holiday in a few weeks. I think it will be beneficial.

Kind regards,

Katya”

7.2.3 CONVERSATION WITH CLLR KATYA MADDISON

When we asked Cllr Katya Maddison about the Facebook post she replied, “I don’t dispute that I wrote the post. I don’t recall writing it, but I can see myself writing it in the context of what had

happened at the AGM earlier the same day. I had forgotten that it was on [REDACTED] Facebook page. It obviously has the potential to be more public than the incident at the AGM.”

She continued, “You can imagine that I might write it after what had happened at the AGM. I don’t think I would write that today. Is it my act of writing it that has caused the reputational damage or the governance failures, scandals and shenanigans which lie behind them - some of which go back many years? I think that’s really important. It was one sentence. Where is the visible effect or the take up? What is the harm done here? It’s a single drip which is incremental to everything else that has gone before. And how important is it in the scale of things?

“Let’s look at Para. 4.3 (h) – “You must not conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute”. I’ve done my job. I’m a polite person. I don’t get involved in weird behaviours or excesses. I’m not corrupt. I’ve turned down four Cabinet positions and another paid one in order to better be able to perform the role I’ve taken on. I’ve been thanked by members of the public for restoring their faith in councillors, which would suggest I’m representing them well. I’ve put in lots of effort to try to explain how bits of the Council work and don’t work. I am diligent with a strong work ethic. My partner in Prosper Torbay and I were, by quite a measurable margin, the hardest-working councillors in Torbay. So, I’ve performed my function. I myself am not “disreputable” as a councillor.

“The issue is therefore whether I have brought the Council into disrepute. I think it’s really important to distinguish between how you bring something into disrepute and who is doing the bringing in. Am I making someone aware of disrepute or am I causing the disrepute? I don’t think I’m the cause of it. I may cause inconvenience and embarrassment but that’s not what the statute says. The statute asks whether I have brought the Council into disrepute? Is there something about my actions or my behaviour that has brought the Council into disrepute? I don’t believe so.

“I also think - and this is important - that it is the *core* of my activity and part of my political activity to connect to members of the public on these matters. It’s by doing that that a lot of people have realised what I’m about come and have come to me with more. I don’t have a party group. I don’t have that connection through some mediated source. All I’ve got is me on the street talking to people. I wouldn’t have written what I wrote again, but I actually think it’s important that members of the public know they are represented and that they are spoken to honestly.

“Which bit would I change? I would change the language. I think “Conservative support” is quite funny. I probably wouldn’t write what I wrote again. But what I might do is list the things that actually happened and then leave it to the reader to draw their own conclusions about what that means. It’s not my job to paper over stuff. It’s not my objective to embarrass the Council. My objective is to try and bring improvement.”

We then observed that she had written “Torbay Council is a sick institution and certain leading Council officers are at the heart of it”. She replied, “I think that’s embarrassing. The CEO may not feel very good about it, but it doesn’t mean that I’ve brought the Council into disrepute. That is fundamentally my position If the Standards process is used to prevent councillors communicating on valid issues, then you leave councillors with no way to improve the Council and democracy is a sham.”

We then asked about an email that Anne-Marie Bond had sent her around a week after she made the Facebook post and her own reply. We read both emails to Cllr Maddison (as set out in Section 7.2.2.2 above). We asked what Cllr Maddison meant by her “very reasonable suggestions” in her reply to MS Bond?

She replied, “I don't really recall what I was thinking when I wrote that reply. We did meet subsequently. That was when I asked her whether she considered it to be part of her role to discourage or deter the actions of councillors who might bring the Council into disrepute. I note that there is no charge against the Leader of the Conservatives who *did* bring disrepute on the Council.

“When the meeting with Anne-Marie took place, I saw it as an opportunity to communicate some of the things I thought. We didn't discuss the social media post at all nor did she bring it up. I had been away on holiday so maybe the moment had passed? I had been working on preparing a list of functional ways in which I thought the Council could be improved – among them information sharing with local businesses over some works on the seafront. I sat with Anne-Marie and asked her how she thought we might be able to improve in that activity. She replied with words – it sounded like a politician's answer and meant nothing. She showed no curiosity at all and didn't ask me any questions and I drew that to her attention. She showed no interest in improving things. That meeting was the consequence of that email exchange.”

7.2.4 ██████████ FACEBOOK PAGE

We looked at the Facebook page of ██████████, which is publicly available and, at time of writing, shows that she has 986 followers (and around 1,300 friends, amongst them Katya Maddison). ██████████ appears to have a column in Torbay Weekly, which describes itself as “a weekly newspaper for the “Naturally inspiring” English Riviera” and has 9,900 followers.

We noted a post by ██████████ on Torbay Weekly commenting on events at the 16th May Council Meeting dated 22nd May which she described as her column in Torbay Weekly. Katya Maddison replied to that article saying, *“I would have thought defence of our democratic values would be just as important... but perhaps not in this council? It seems when you say things as they are, ie. the truth, you are bringing the council into disrepute. But when a councillor - the leader of the council - breaks his word and contravenes the principles for public life he has signed up to, well then nothing happens. There would be no outrage, no washing of dirty linen in public, if everything were functioning as it should be. It simply would not be necessary.”*

8. FINDINGS AND CONCLUSION – CAPACITY

8.1 BACKGROUND

In every investigation we carry out we must establish whether a subject member is “in capacity”. As discussed in Section 3.3, “councillors must actually be engaged on council business or commenting on council business or acting as a representative of the authority to be deemed “within capacity””.

As previously noted, “conduct that might be regarded as reprehensible and even unlawful is not necessarily covered by a code of conduct; a link to that person’s membership of their authority and specifically their role as a councillor is needed.”

In short, if a subject member is not found to be in capacity, then a code of conduct is not engaged.

8.2 WHAT DOES “IN CAPACITY MEAN”?

8.2.1 CASE LAW

The Localism Act 2011 is silent on the matter of what being “in capacity” actually means and, at time of writing, there is no case law on the interpretation of “acting in [the]capacity” of a member or co-opted member” under the Localism Act 2011.

However, the issue of where the boundaries lie between a councillor acting as a councillor and a councillor acting as a private citizen has been explored in a number of cases which predate the 2011 Localism Act but nevertheless remain relevant.

In **Livingstone v Adjudication Panel for England [2006]** Mr Justice Collins considered the scope of the Code in relation to when a councillor is acting in their official capacity. Mr Justice Collins stated at paragraphs 27 to 29:

“Conduct which is regarded as improper and meriting some possible sanction will often be constituted by misuse of a councillor’s position. He may be purporting to perform his functions if, for example, he seeks to obtain an advantage by misusing his position as a councillor. Such misuse may not amount to corruption; it may nonetheless be seen not only to be improper but to reflect badly on the office itself. If the words “in performing his functions” are applied literally, it may be said that such misuse, and other misconduct which is closely linked to his position as such may not be covered.

... Thus, where a member is not acting in his official capacity (and official capacity will include anything done in dealing with staff, when representing the council, in dealing with constituents’ problems and so on), he will still be covered by the Code if he misuses his position as a member. That link with his membership of the authority in question is in my view needed. This approach is very similar to that adopted in Scotland and in my judgment accords with the purpose of the Act and the limitations that are appropriate. It is important to bear in mind that the electorate will exercise its judgment in considering whether what might be regarded as reprehensible conduct in a member’s private life should bring his membership to an end in due course...

The Livingstone judgment was considered in detail in “**Bartlett v Milton Keynes Council [2008] APE 0401**” in an appeal from the local standards committee. In the Tribunal’s view, the Livingstone judgment established that for a councillor to be acting in an official capacity:

- the councillor should be engaged in business directly related to the Council or constituents;
- the link between the councillor’s office and the conduct should have a degree of formality.

First Tier Tribunal Case No. LGS/2011/0537 appears to be particularly pertinent here in that Judge Laverick was specifically considering a councillor’s use of social media and the capacity in which the councillor was writing in an online blog. Judge Laverick stated that it was perfectly reasonable for a councillor to write posts and make comments in their private capacity even if their social media account clearly identified them as a councillor; the key determining factor when it came to deciding the capacity in which the councillor was writing was whether the content of the relevant post was sufficiently connected to Council business in order for the Code of Conduct to be engaged.

So, here (and in other cases not referred to here) there is case law which helps inform the question of what “in capacity” means.

8.2.2 LGA GUIDANCE

The LGA has published supporting guidance (already termed “the Guidance”) which helps with understanding of, and consistency of approach towards, the Model Councillor Code of Conduct (which has been adopted by many other authorities in England). The Guidance is relevant here too.

In that section of the Guidance that considers the Application of the Model Code it addresses the question of “When does the Code apply?” As already noted in Section 3 above, it says, “The Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when ... your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.”

8.3 EVALUATION – WAS CLLR MADDISON ACTING IN CAPACITY?

As previously noted, a council’s code of conduct applies whenever an individual is acting in their capacity as a member or co-opted member of that council. The Localism Act 2011 does not define the term “capacity”. We are able, however, to turn to earlier case law and to the LGA Guidance in reaching a conclusion as to whether a councillor is acting “in capacity” in any given set of circumstances.

It appears beyond doubt that, at time of writing, Cllr Maddison has been a Torbay Councillor since her election on 4th May 2023. Moreover, she is recorded as having signed her Acceptance of Office on 9th May 2023, and she was still a serving Councillor when the alleged breaches of the Code took place on 16th May 2024. She remains a councillor at time of writing.

In this case we have to consider two apparently distinct sets of circumstances in assessing whether Cllr Maddison was in capacity – the events in the Riviera Centre and the Facebook post later the same day.

Cllr Maddison’s encounter with Anne-Marie Bond took place immediately after a particularly contentious Annual Meeting during which Cllr Maddison had proposed the first motion – to elect Cllr Swithin Long as Mayor – a motion that had not unexpectedly been defeated. Emotions were running high in the Council Chamber and there had apparently been several shouts of “Shame on you” during the meeting (they are audible on the YouTube recording). Cllr Maddison appears to

have repeated those words – and directed them to Anne-Marie Bond personally - when she encountered her with the Mayoral party as Ms Bond was about to enter the Retiring Room after the meeting. The meeting had finished but the context of her remark to Ms Bond as she explained it to us was very clearly that of Council business – the Annual Meeting and the election of the Mayor - and Anne-Marie Bond’s part in that business.

As far as the Facebook post was concerned, Cllr Maddison did not identify herself as a Torbay Councillor when she posted in reply to a post, apparently on [REDACTED] Facebook page, later that same day. However, the Facebook account from which she made the post identifies her as a Councillor at Torbay Council. The subject matter of her post was once again events at the Annual Meeting at which she had been present as a councillor and the business of the Council more widely. It appears to be beyond doubt that Cllr Maddison was posting as a Torbay Councillor about the business of Torbay Council.

8.4 CONCLUSION - WAS CLLR MADDISON ACTING IN CAPACITY?

On the basis of the evidence available to us and on the balance of probability, we therefore conclude that Cllr Maddison was acting in her capacity as a Torbay Councillor both when she encountered Anne-Marie Bond in the Riviera International Centre on 16th May 2024 and later the same day when she made a Facebook post about events at the Annual Meeting and about the Council and its officers. The Torbay Council Code of Conduct is therefore engaged.

9. EVALUATION AND CONCLUSIONS - COMPLAINT

9.1 ALLEGATIONS AND CODE OF CONDUCT

9.1.1 ALLEGATIONS

In the Complaint (as set out in Section 5.1 above), Anne-Marie Bond made three allegations of breach of the Code against Cllr Katya Maddison. As a reminder to the reader, the allegations suggest that three paragraphs of the Code may have been breached by Cllr Maddison. Those are:

- Paragraph 4.2 (a) - You **must** treat others with courtesy and respect;
- Paragraph 4.3 (a) - As a Member you **must not** bully or harass any person; and
- Paragraph 4.3 (h) – As a Member You **must not** conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.

9.1.2 FREEDOM OF EXPRESSION

One of the allegations made by Ms Bond was that Cllr Maddison breached the Code by not treating others with courtesy and respect (paragraph 4.2 (a) of the Code).

In considering whether Cllr Maddison's actions were such as to breach the threshold of the Code we must consider the rights to freedom of expression. In doing so we have regard to Article 10 of the European Convention on Human Rights (ECHR) which provides:

“(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers....

(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of...the protection of the reputation or rights of others ...”

In considering these matters it is important to note the words of Collins J in the case of *Livingstone v The Adjudication Panel for England [2006]* who said that the right to freedom of expression is a crucially important right in a democratic society and it is clear that it may only be interfered with where there are convincing and compelling reasons within the terms of Article 10(2) justifying that interference. A key issue for determination is thus whether a finding of a breach of the Code on the facts as found, would represent no greater an impairment to an elected member's right to freedom of expression than is necessary to accomplish the legislative objective of the Code. In assessing the extent to which a councillor's comments should be restricted, the importance of freedom of political expression in the political sphere needs to be borne in mind.

The issue of the extent to which a councillor's right to freedom of expression, and even the right to be offensive, can be constrained by a code of conduct was explored in detail in the case of *Heesom v Public Service Ombudsman for Wales*. In that case Mr Justice Hickinbottom considered a councillor's right to free speech in some detail. His considerations drew attention to a number of earlier cases in which various propositions could be derived. Three of his considerations (which can be found in para. 38 of the Judgement) appear to be pertinent here.

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1. Article 10 protects not only the substance of what is said, but also the form in which it is conveyed. Therefore, in the political context, a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, non-rational and aggressive, that would not be acceptable outside that context, is tolerated. Whilst, in a political context, Article 10 of the European Convention on Human Rights (ECHR) protects the right to make incorrect but honestly made statements, it does not protect statements which the publisher knows to be false.
2. Politicians have enhanced protection as to what they say in the political arena; but Strasbourg also recognises that, because they are public servants engaged in politics, who voluntarily enter that arena and have the right and ability to respond to commentators (any response, too, having the advantage of enhanced protection), politicians are subject to “wider limits of acceptable criticism”. They are expected and required to have thicker skins and have more tolerance to comment than ordinary citizens.
3. Past cases draw a distinction between fact on the one hand, and comment on matters of public interest involving value judgement on the other. As the latter is unsusceptible of proof, comments in the political context amounting to value judgements are tolerated even if untrue, so long as they have some – any – factual basis. What amounts to a value judgement as opposed to fact will be generously construed in favour of the former; and even where something expressed is not a value judgement but a statement of fact (e.g. that a council has not consulted on a project), that will be tolerated if what is expressed is said in good faith and there is some reasonable factual basis (even if incorrect) for saying it, “reasonableness” here taking account of the political context in which the thing was said.

At para. 39ff of the Judgement Mr Justice Hickinbottom discusses the position of non-elected public servants. At para. 42 his considerations include the following:

- (i) Civil servants are, of course, open to criticism, including public criticism; but they are involved in assisting with and implementing policies, not (like politicians) making them. As well as in their own private interests in terms of honour, dignity and reputation, it is in the public interest that they are not subject to unwarranted comments that disable them from performing their public duties and undermine public confidence in the administration. Therefore, in the public interest, it is a legitimate aim of the State to protect public servants from unwarranted comments that have, or may have, that adverse effect on good administration.
- (ii) Nevertheless, the acceptable limits of criticism are wider for non-elected public servants acting in an official capacity than for private individuals, because, as a result of their being in public service, it is appropriate that their actions and behaviour are subject to more thorough scrutiny. However, the limits are not as wide as for elected politicians, who come to the arena voluntarily and have the ability to respond in kind which civil servants do not.
- (iii) Where critical comment is made of a civil servant, such that the public interest in protecting him as well as his private interests are in play, the requirement to protect that civil servant must be weighed against the interest of open discussion of matters of public concern and, if the relevant comment was made by a politician in political expression, the enhanced protection given to his right of freedom of expression.

The “Guidance on Local Government Association Model Councillor Code of Conduct” (“the Guidance”) which we have previously referred to says the following about Freedom of Expression:

“The requirement to treat others with respect must be balanced with the right to freedom of expression. Article 10 of the European Convention on Human Rights protects your right to hold your own opinions and to express them freely without government interference. This includes the right to express your views aloud or in writing, such as in published articles or leaflets or on the internet and social media. Protection under Article 10 extends to the expression of views that may shock, disturb, or offend the deeply-held beliefs of others.

However, Article 10 is not an absolute but a qualified right which means that the rights of the individual must be balanced against the interests of society. Whether a restriction on freedom of expression is justified is likely to depend on a number of factors, including the identity of the speaker, the context of the speech and its purpose, as well as the actual words spoken or written. Democracy depends on people being free to express, debate and criticise opposing viewpoints. The courts have generally held that the right to free expression should not be curtailed simply because other people may find it offensive or insulting. A balance must still be struck between the right of individuals to express points of view which others may find offensive or insulting, and the rights of others to be protected from hatred and discrimination.

Freedom of expression is protected more strongly in some contexts than others. In particular, a wide degree of tolerance is accorded to political speech, and this enhanced protection applies to all levels of politics, including local government. Article 10 protects the right to make incorrect but honestly made statements in a political context but it does not protect statements which the publisher knows to be false. Political expression is a broad concept and is not limited to expressions of or criticism of political views but extends to all matters of public administration including comments about the performance of public duties by others. However, gratuitous personal comments do not fall within the definition of political expression.”

9.1.3 LOCAL GOVERNMENT ASSOCIATION

When considering whether a councillor’s behaviour is disrespectful, we must therefore take into account and give considerable weight to their right to freedom of expression. However, we must also reflect upon whether, in exercising that right, they have crossed the line into personal abuse.

With that in mind we note the UK Local Government Associations: Joint Statement on Civility in Public Life. Talking about councillors it says that “The intimidation and abuse of Councillors, in person or otherwise, undermines democracy; it can prevent elected members from representing the communities they serve, prevent individuals from standing for election and undermine public trust in democratic processes. These harmful behaviours, whether occurring towards, between or by elected members are entirely unacceptable”.

9.1.4 RESPECT

The Guidance says the following about **respect**:

“Showing respect to others is fundamental to a civil society. As an elected or appointed representative of the public it is important to treat others with respect and to act in a respectful way. Respect means politeness, courtesy and civility in behaviour, speech, and in the written word. It also relates to all forms of communications councillors undertake, not just in meetings. Rude, offensive, and disrespectful behaviour lowers the public’s expectations and confidence in its elected representatives.

“The key roles and responsibilities of councillors; representing and serving your communities and taking decisions on their behalf, require councillors to interact and communicate effectively with others. Examples of councillor interaction and communication include talking to constituents, attending local authority meetings, representing the local authority on outside bodies, and participating in community meetings and events. In turn this means that as a councillor you are required to interact with many different people, often from diverse backgrounds and with different or conflicting needs and points of view.

“You will engage in robust debate at times and are expected to express, challenge, criticise and disagree with views, ideas, opinions, and policies. Doing these things in a respectful way will help you to build and maintain healthy working relationships with fellow councillors, officers, and members of the public, it encourages others to treat you with respect and helps to avoid conflict and stress. Respectful and healthy working relationships and a culture of mutual respect can encourage positive debate and meaningful communication which in turn can increase the exchange of ideas, understanding and knowledge.

“Examples of ways in which you can show respect are by being polite and courteous, listening and paying attention to others, having consideration for other people’s feelings, following protocols and rules, showing appreciation and thanks and being kind. In a local government context this can mean using appropriate language in meetings and written communications, allowing others time to speak without interruption during debates, focusing any criticism or challenge on ideas and policies rather than personalities or personal attributes and recognising the contribution of others to projects.”

When discussing **disrespectful behaviour** the Guidance says:

“Failure to treat others with respect will occur when unreasonable or demeaning behaviour is directed by one person against or about another. The circumstances in which the behaviour occurs are relevant in assessing whether the behaviour is disrespectful. The circumstances include the place where the behaviour occurs, who observes the behaviour, the character and relationship of the people involved and the behaviour of anyone who prompts the alleged disrespect.

Disrespectful behaviour can take many different forms ranging from overt acts of abuse and disruptive or bad behaviour to insidious actions such as bullying and the demeaning treatment of others. It is subjective and difficult to define. However, it is important to remember that any behaviour that a reasonable person would think would influence the willingness of fellow councillors, officers or members of the public to speak up or interact with you because they expect the encounter will be unpleasant or highly uncomfortable fits the definition of disrespectful behaviour.

Examples of disrespect in a local government context might include rude or angry outbursts in meetings, use of inappropriate language in meetings or written communications such as swearing, ignoring someone who is attempting to contribute to a discussion, attempts to shame or humiliate others in public, nit-picking and fault-finding, the use of inappropriate sarcasm in communications and the sharing of malicious gossip or rumours.

Disrespectful behaviour can be harmful to both you and to others. It can lower the public’s expectations and confidence in you and your local authority and councillors and politicians more generally. It influences the willingness of fellow councillors, officers, and the public to speak up or

interact with you because they expect the encounter will be unpleasant or uncomfortable. Ongoing disrespectful behaviour can undermine willingness of officers to give frank advice, damage morale at a local authority, and ultimately create a toxic culture and has been associated with instances of governance failure.

Addressing the question of whether the Respect provision of the Model Code is a gag on councillors, the Guidance says:

“This provision of the Code (Paragraph 1) is not intended to stand in the way of lively debate in local authorities. Such discussion is a crucial part of the democratic process. Differences of opinion and the defence of those opinions through councillors’ arguments and public debate are an essential part of the cut and thrust of political life. Councillors should be able to express their opinions and concerns in forceful terms. Direct language can sometimes be appropriate to ensure that matters are dealt with properly. The code is not intended to stifle the expressions of passion and frustration that often accompany discussions about local authority business.”

Speaking about **freedom of expression** the Guidance says, *“The requirement to treat others with respect must be balanced with the right to Freedom of expression. Article 10 of the European Convention on Human Rights protects your right to hold your own opinions and to express them freely without government interference. This includes the right to express your views aloud or in writing, such as in published articles or leaflets or on the internet and social media. Protection under Article 10 extends to the expression of views that may shock, disturb, or offend the deeply-held beliefs of others.*

However, Article 10 is not an absolute but a qualified right which means that the rights of the individual must be balanced against the interests of society. Whether a restriction on freedom of expression is justified is likely to depend on a number of factors, including the identity of the speaker, the context of the speech and its purpose, as well as the actual words spoken or written. Democracy depends on people being free to express, debate and criticise opposing viewpoints. The courts have generally held that the right to free expression should not be curtailed simply because other people may find it offensive or insulting. A balance must still be struck between the right of individuals to express points of view which others may find offensive or insulting, and the rights of others to be protected from hatred and discrimination.”

9.1.5 BULLYING

The relevant parts of the Guidance say the following about **bullying**:

“Bullying, harassment, discrimination, and victimisation (either directly or indirectly) are unacceptable and should not be tolerated. It is important to recognise the impact such behaviour can have on any individual experiencing it, as well as on the wider organisation in terms of morale and operational effectiveness.

Bullying may be characterised as offensive, intimidating, malicious, insulting, or humiliating behaviour, an abuse or misuse of power that can make a person feel vulnerable, upset, undermined, humiliated, denigrated or threatened. Power does not always mean being in a position of authority and can include both personal strength and the power to coerce through fear or intimidation. Bullying may be obvious or be hidden or insidious. Such conduct is usually part of

a pattern of behaviour which attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.

Bullying can take the form of physical, verbal, and non-verbal conduct but does not need to be related to protected characteristics. Bullying behaviour may be in person, by telephone or in writing, including emails, texts, or online communications such as social media. The standards of behaviour expected are the same, whether you are expressing yourself verbally or in writing.

Bullying can affect anyone, in any career, at any time, at any level and within any workplace. Such behaviour can take the form of easily noticed, physically threatening or intimidatory conduct with immediate impact, or it can take place behind closed doors, or be much more subtle or camouflaged and difficult to identify, at least at first. It can start, for example, with what appear to be minor instances, such as routine 'nit-picking' or fault-finding, but which become cumulative or develop into more serious behaviour over time, enabling the perpetrator to isolate and control the person.

Some bullies lack insight into their behaviour and are unaware of how others perceive it. Others know exactly what they are doing and will continue to bully if they feel they are unlikely to be challenged. Bullying can sometimes be overlooked, as a result of common euphemisms being used by way of explanation or justification, referring to someone as having a "poor leadership style" or a "bad attitude," for example, or to the problem being due to a "personality clash".

You should always be mindful of the overall potential impact of the behaviour on others. First and foremost, bullying can have a significant impact on the recipient's well-being and health. Bullying can have an impact on a local authority's effective use of resources and provision of services. Officers who are subject to bullying are frequently away from their posts, sometimes for extended periods, on sickness or stress-related leave. Bullying can impact on a councillor's ability to represent their residents effectively. It can also discourage candidates from standing in local elections, making local authorities less representative of their communities, and impacting local democracy.

Like disrespectful behaviour, bullying can be difficult to define. When allegations of bullying are considered it's likely that the person handling the complaint will consider both the perspective of the alleged victim, and whether the councillor intended their actions to be bullying. They will also consider whether the individual was reasonably entitled to believe they were being bullied.

Conduct is unlikely to be considered as bullying when it is an isolated incident of a minor nature, where it is targeted at issues, rather than at an individual's conduct or behaviour, or when the behaviour by both the complainant and councillor contributed equally to the breakdown in relations. However, the cumulative impact of repeated 'minor' incidents should not be underestimated.

Examples of bullying include but are not limited to:

- *verbal abuse, such as shouting, swearing, threats, insults, sarcasm, ridiculing or demeaning others, inappropriate nicknames, or humiliating language*
- *physical or psychological threats or actions towards an individual or their personal property*
- *practical jokes*

- *overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures*
- *inappropriate comments about someone's performance*
- *abuse of authority or power, such as placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations*
- *ostracising or excluding someone from meetings, communications, work events or socials*
- *sending, distributing, or posting detrimental material about other people, including images, in any medium*
- *smear campaigns.*

The Guidance goes on to say:

“Does this mean that councillors cannot raise concerns about officers or fellow councillors?”

Bullying behaviour should be contrasted with the legitimate challenges which a councillor can make in challenging policy or scrutinising performance. An example of this would be debates in the chamber about policy or asking officers to explain the rationale for the professional opinions they have put forward. You are entitled to challenge fellow councillors and officers as to why they hold their views. However, if your criticism is a personal threat or abusive or offensive in nature, you are likely to cross the line of what is acceptable behaviour.”

9.1.6 HARASSMENT

The relevant parts of the Guidance say the following about **harassment**:

“The Protection from Harassment Act 1997 states that harassment includes behaviour which alarms a person or causes a person distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a victim in a manner that could be expected to cause distress or fear in any reasonable person. Harassment of any kind whether direct or indirect is in no-one's interest and should not be tolerated. It is important to recognise the impact such behaviour can have on any individual experiencing it, as well as on the wider organisation in terms of morale and operational effectiveness.

Like bullying, harassment can take the form of physical, verbal, and non-verbal conduct but does not need to be related to protected characteristics. Harassment may be in person, by telephone or in writing, including emails, texts, or online communications such as social media. It may manifest obviously or be hidden or insidious.

The factors likely to be considered when assessing allegations of harassment are whether the councillor knows or ought to know that their actions constitute harassment, whether a reasonable person would consider the actions to be harassment and the impact of the behaviour/conduct on victim.

Examples of harassment include but are not limited to:

- *sending unwelcome emails*
- *unnecessarily repetitive, intrusive questioning*
- *unwelcome physical contact such as touching or invading 'personal space'*

- *haranguing*
- *intimidation*
- *inappropriate remarks or questioning such as comments about someone’s appearance, lewd comments, and offensive jokes*
- *overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures*
- *inappropriate comments about someone’s performance*
- *placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations*
- *sexual harassment”*

9.1.7 **DISREPUTE**

The Guidance says the following about **disrepute**:

“As a councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. Article 10 of the European Convention on Human Rights protects your right to freedom of expression, and political speech as a councillor is given enhanced protection but this right is not unrestricted. You should be aware that your actions might have an adverse impact on your role, other councillors and/or your local authority and may lower the public’s confidence in your ability to discharge your functions as a councillor or your local authority’s ability to discharge its functions.

*In general terms, disrepute can be defined as a lack of good reputation or respectability. In the context of the Code of Conduct, a councillor’s behaviour in office will bring their **role** into disrepute if the conduct could reasonably be regarded as either:*

1. *reducing the public’s confidence in them being able to fulfil their role; or*
2. *adversely affecting the reputation of your authority’s councillors, in being able to fulfil their role.*

*Conduct by a councillor which could reasonably be regarded as reducing public confidence in their local authority being able to fulfil its functions and duties will bring **the authority** into disrepute.*

For example, circulating highly inappropriate, vexatious or malicious e-mails to constituents, making demonstrably dishonest posts about your authority on social media or using abusive and threatening behaviour might well bring the role of councillor into disrepute. Making grossly unfair or patently untrue or unreasonable criticism of your authority in a public arena might well be regarded as bringing your local authority into disrepute.”

9.2 **EVALUATION OF EVIDENCE**

We now evaluate the Complaint *based on the evidence available to us and the balance of probability*. The evidence we consider is, for the most part, set out in Sections 5 and 7 above. Further evidence is listed in Appendix 1.

9.2.1 ENCOUNTER IN RIVIERA INTERNATIONAL CENTRE

We first discuss the encounter between Anne-Marie Bond and Cllr Katya Maddison which took place at the Riviera International Centre in Torbay after the Annual Meeting of the Council on 16th May. We consider whether there were any breaches of the Code during that encounter.

Neither Complainant nor Subject Member disputes that there *was* an encounter, nor that Cllr Maddison twice said to Anne-Marie Bond, “Shame on you, Anne-Marie” as the Mayoral Party was walking the short distance – three metres, Ms Bond said - between the door leading out of the Council Chamber and the door into the Retiring Room. It was agreed that Cllr Maddison used the phrase a second time when asked by Ms Bond to repeat what she had said. Neither party disputes that Cllr Maddison’s words were specifically directed at Ms Bond herself.

There had been shouts of “Shame on you” in the Council Chamber at the end of the meeting though the words in the Chamber appear not to have been directed towards any named individual. It was not clear who had used them (at least not to us) from the audio recording of the meeting. The phrase was, therefore, “in vogue” at the time Cllr Maddison used it.

Ms Bond described the situation in the area as “intense”, saying that there was a “throng” of people gathered in the area adjacent to the Retiring Room. She suggested that some people may have been directing the words “Shame on you” to the Mayoral Party as a whole. Cllr Martin Brook, the Macebearer, went further and described the situation as “rather intimidating and hostile”. He said that Liberal Democrat members were “waiting outside the door to the Mayor’s room”.

By contrast, whilst saying that people were “upset” and that tensions had risen, Cllr Maddison and, to some extent Cllr Amil, appeared to us to be downplaying the level of emotion present in the room. She appeared to us to be portraying the encounter as somewhat accidental – she had not, as it were, been “lying in wait” in some way.

It appears to us that emotions were very likely to have been running high (they were still running high when Cllr Maddison made her Facebook post later that day). It also appears to us likely, given what had happened in the Council Chamber, that some of those present *were* waiting for the Mayoral Party though we do not know whether Cllr Maddison herself was doing that. Ms Bond’s statement that people were congregated in “small groups” does not, however, convey the impression of a “baying mob” gathered, waiting for the Mayoral Party.

Cllr Maddison told us that Cllr Nicole Amil had heard her repeat her words but had not heard her say them the first time round. Cllr Amil confirmed that she heard them only once. Cllr Maddison told us that she had spoken politely, quietly and conversationally, and that, apart, from Cllr Amil, no-one else had heard what she said. Cllr Amil also told us that no-one else had heard what was said. She described Cllr Maddison as “quietly spoken” and told us that she did not raise her voice.

There was no suggestion from Ms Bond either in the Complaint or when she spoke to us that Cllr Maddison had raised her voice towards her. We do, though, agree that the encounter took place in a “public setting”.

Ms Bond told us that she had been following the Mayor and the Deputy Mayor (and presumably the Macebearer) – bringing up the rear - when Cllr Maddison spoke to her as she was about to walk through the door into the Retiring Room. She had stopped to ask Cllr Maddison to repeat

her remark. It appeared to us that, when Ms Bond stopped, those ahead of her were likely to have been about to enter or to have already entered the Retiring Room without breaking step.

The three others in the Mayoral Party told us (by email) that they had heard what Cllr Maddison said and confirmed that Ms Bond had expressed her shock once they were behind the closed door of the Retiring Room. We were told that the distance was short, that the Party was moving quickly, that Ms Bond was bringing up the rear and that she had stopped to engage briefly with Cllr Maddison.

We accepted that the other three members of the Mayoral Party heard Cllr Maddison speak to Ms Bond, but it nevertheless remained at least possible - something we did not discuss with them as they were not interviewed - that they recalled others shouting out the words "Shame on you" as the Mayoral Party passed and that they were, three months after the event, conflating the speaking of those words by others with Ms Bond's explanation of what had just been said once they were in the Retiring Room.

In any event, it appeared to us that the number of people who heard Cllr Maddison's words was a maximum of five individuals, including Anne-Marie Bond herself. We do not, therefore, consider Cllr Maddison to have spoken her words "in public" even if the setting itself was public.

Ms Bond said in the Complaint that Cllr Maddison had challenged her integrity in public. She used the word "attack" and said that Cllr Maddison had "humiliated, denigrated and injured her reputation". She had "undermined [her] impartiality and professionalism". She told us she was "shocked, horrified and angered" and that she had never been spoken to in such a way and had "never faced such an insinuation".

Cllr Maddison told us her words had no malevolence. Her demeanour and tone were unexceptional. Whilst Ms Bond may have been sensitive to what she had said there was "no aggression in the delivery" and no harm had been done. She felt it was the responsibility of councillors "to speak their truth to officers" and thought the comment "appropriate". She confirmed that she was alleging that Ms Bond had shown partisanship and had failed to prevent the Leader from reneging on a publicly given promise.

We do not doubt that Anne-Marie Bond was offended by what Cllr Katya Maddison said, and we can understand why she saw it as an attack on her professionalism and impartiality.

It appears to us that Cllr Maddison's remark arose out of a certain dissatisfaction, perhaps even bitterness, that things had not gone the way the Opposition (including herself as a former member of "Prosper Torbay") wanted them to. The election of the Mayor, with their casting vote, was an absolutely critical one in deciding who was in control of Torbay Council.

Politics was therefore front and centre as, presumably, it was when Cllr Maddison and Cllr Patrick Joyce left the Conservative Group and formed "Prosper Torbay" in October 2023, a few months after they were elected as Conservative candidates in May 2023. Until they formed "Prosper Torbay" they had been part of a Conservative Administration. In leaving the Conservative Group they had themselves to some extent set the political scene for what followed in the months afterwards.

Having carefully considered the evidence in Sections 5 and 7 and Appendix 1 in the context of the material set out in Section 9.1 we conclude on the balance of probability that:

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- Whilst Anne-Marie Bond described Cllr Katya Maddison’s remark as an “attack”, Cllr Maddison does not appear to have made her remark in a loud, aggressive, threatening, abusive or confrontational manner.
- Whilst the remark was certainly made “in a public setting” rather than in private, we were not presented with compelling evidence to suggest that it was heard by more than five people, at most - Ms Bond herself, Cllr Nicole Amil, and the three other members of the Mayoral Party. It of course remains possible that others did hear the remark.
- Ms Bond and Cllr Maddison remain at odds about who heard the remark. That is evident from their comments on the Draft Report as set out in Appendix 4, and in Cllr Maddison’s case, from her comments on the (first) Final Report as summarised in Appendix 5. Ms Bond insists that a minimum of five people heard what Cllr Maddison said, whilst Cllr Maddison questions whether any more than two people heard what was said.
- Who did or did not hear the remark is not, however, crucial in deciding whether there has been a breach of the Code, which is the task at hand. (Hence we have opted to reflect and record the difference of opinion rather than reach a substantive conclusion about the areas of difference and why they exist, as Cllr Maddison would have us do).
- Cllr Maddison believed and continues to assert that Ms Bond behaved in a partisan way in respect of the Council business surrounding the election of the Mayor and her handling of the AGM. Her views appear to be honestly held, and she has a right to express them.
- Cllr Maddison’s remark constituted political expression, which extends to all matters of public administration including comments about the performance of public duties by others including, in this case, the Chief Executive.
- Whilst not a councillor (who is expected to be more tolerant to criticism than an ordinary citizen), Anne-Marie Bond must expect as the most senior Council officer to receive a certain amount of criticism of her actions, whether or not that criticism is justified, just so long as that criticism does not cross the line into gratuitous personal abuse.
- We do not doubt that Cllr Maddison’s words angered and distressed Ms Bond and left her feeling humiliated, or that she considered them shocking and offensive. It appears to be a fact that the words were expressed “in a public setting” and it may be that they were heard by more, or indeed fewer, than the five people identified during the Investigation. However, Cllr Maddison’s words were political expression about Ms Bond’s professional actions as Torbay Council’s Chief Executive. True or false they fell considerably short of being gratuitous personal abuse and are afforded protection under Article 10 of the European Convention on Human Rights.

We therefore conclude that, as far as the events at the Riviera International Centre on 16th May 2024 are concerned, Cllr Katya Maddison did not breach any of the paragraphs of the Torbay Council Code of Conduct for Members.

9.2.2 FACEBOOK POST

We next examine the post made, she confirmed, by Cllr Katya Maddison in reply to another (unidentified) post on the Facebook page, apparently, of [REDACTED] and consider whether Cllr Katya Maddison breached the Code in making that post. In doing this we once again draw the reader’s attention to Section 9.1 above which contains material which helps us decide whether comments such as those in the Facebook post constitute breaches of a code of conduct.

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The wording of the Facebook post is not in dispute. It is to be found at Section 7.2.1 above. Having launched what might be described as a vitriolic attack on the local Conservative Administration and the Conservative Party nationally, Cllr Maddison invited readers of the post to *“watch the YouTube replay (unless Governance Support – which I’ve christened Conservative support – chooses to hold it back. If it’s not out tonight, start asking questions). Torbay Council is a sick institution and certain leading council officers are at the heart of it. Independents must prepare to stand forward in three years to take this terrible entropy on”*.

Whilst not denying that she had written the Facebook post, Cllr Maddison told us that she did not remember writing it. As she had done with her remarks after the Annual Meeting, she appeared to us to be attempting to play down what had happened. How important in the scale of things was what she said? She was polite, diligent with a strong work ethic and did not believe she had brought the Council into disrepute. Her objective was not to embarrass the Council, she said.

Rather than having subsided after the Annual Council meeting, it appeared to us that Cllr Maddison’s anger about what happened at the meeting had, perhaps, increased and was expressed in more strident terms in the Facebook post made, presumably, a few hours after the meeting ended. In the post Cllr Maddison was:

- Directly accusing the Council’s Governance Support team of favouring the Conservative Administration by – potentially - holding back the YouTube video of the Council meeting. She was, in other words, questioning the impartiality of an entire team of officers, some of them presumably junior officers.
- Describing Torbay Council as a “sick institution” and suggesting that leading Council officers were “at the heart of it”. Once again these were broad brush allegations against a group of leading Council officers who, presumably, included the Chief Executive.

Cllr Maddison said that the post “had the potential to be more public than the incident at the AGM”. It is hard to disagree in that ██████████ Facebook page currently has just under 1,000 followers. Whilst it may not be directly relevant, ██████████ has a weekly column in Torbay Weekly which has almost 10,000 followers, which she also appears to post on her own Facebook page. ██████████ appears to have a considerable following, and she appears to echo some of Cllr Maddison’s opinions about Torbay Council in her weekly column.

We noted Cllr Maddison’s comment to us (twice) that she probably wouldn’t write what she wrote again. She would change the language and allow the reader to draw their own conclusions from the facts. We noted too that she replied to Ms Bond’s request in her email to her of 23rd May that she “desist in making any references to officers on social media” by saying, “thank you for your very reasonable suggestions.” It appeared to us that, without saying as much, Cllr Maddison may have been acknowledging that she had perhaps gone too far in ensuring that “stuff wasn’t papered over”.

Having carefully considered the evidence in Sections 5 and 7 and Appendix 1 in the context of the material set out in Section 9.1 we conclude on the balance of probability that:

- Cllr Maddison’s Facebook post had the potential to reach a wide audience in Torbay and beyond and to that extent it was made in a very public setting. If the post was but a “single incremental drip” with little impact, as Cllr Maddison suggested to us that it was, then why make it at all?

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- Taken as a whole the tone and style of what Cllr Maddison said in the Facebook post was altogether different to the three-word comment she had made after the Annual Meeting. Her words appeared to us to be unpleasant, impolite, abusive and disrespectful though they were, to a considerable extent, directed at the Conservative Group and the Conservative Party and were not, *to that extent alone*, covered by the Code.
- When we spoke to her, Cllr Maddison appeared to us to be highly intelligent, a view shared by Cllr Nicole Amil. She told us she had worked as a journalist. We would therefore have expected Cllr Maddison to be both skilled in the use of the written word and to understand the power of words. We doubted that she had chosen her words carelessly. This post was in no way equivalent to a single, perhaps unconsidered, comment made in passing at the Riviera International Centre. Cllr Maddison had had time to consider what she was going to say in the post before she said it.
- Cllr Maddison believed and continues to assert that the Chief Executive behaved in a partisan way in respect of the Council business surrounding the election of the Mayor and her handling of the Annual Meeting. Her views appear to be honestly held, and she has a right to express them providing that she does so in an appropriate way.
- Cllr Maddison’s remark constituted political expression, which extends to all matters of public administration including comments about the performance of public duties by others including, in this case, the Chief Executive and to some extent other “leading officers”.
- Whilst not a councillor (who is expected to be more tolerant to criticism than an ordinary citizen), the Chief Executive and senior Council officers must expect to receive a certain amount of criticism for their actions, whether or not that criticism is justified, just so long as that criticism does not cross the line into gratuitous personal abuse. We do not believe that that expectation applies to less senior officers of the Council, such as the Governance Support team.
- We conclude that the tone and style of the language chosen in the post, the broad brush attack on “leading officers” (doubtless including the Chief Executive) and the suggestion that the Governance Support team (some of whom would be junior officers) were on the side of the Conservatives and might not act with impartiality were abusive and disrespectful. They had the potential to be seriously damaging to the morale of officers, some of them junior officers, and to undermine them in the performance of their duties.
- We observe that the ethos of the Local Government workforce is that they serve the Council as a whole rather than the ruling group. A broadbrush comment such as this, made against officers without supporting evidence, undermines that contract and trust and appears to us to be a clear, premeditated slight designed to damage trust in the Council’s officers. We conclude that the broadbrush, unsubstantiated nature of the comments made about Council officers was disrespectful.
- We conclude that the reference to Torbay Council as a “sick institution” (without any explanation as to why that was the case) and a “terrible entropy” portrayed the Council in such a way as to undermine public confidence in the Council.
- We conclude that the suggestion Cllr Maddison made that leading officers were “at the heart of” the “sick institution” which was Torbay Council was offensive and disrespectful. There was no supporting evidence provided for the suggestion and there almost appeared to us to be an implication that officers were in some way controlling politicians from their position “at the heart of” the “terrible entropy”. The description, apparently of the Council,

as a “terrible entropy” would, for those who understood the word, only serve to magnify the offence.

We conclude that Cllr Maddison’s remarks did cross the line into gratuitous abuse and were no longer afforded protection under Article 10 of the European Convention on Human Rights. We therefore conclude that, as far as the Facebook post on 16th May is concerned, Cllr Katya Maddison breached Paragraph 4.2 (a) of the Code in that she failed to treat officers with respect and breached Paragraph 4.3 (h) of the Code in that she gave a reasonable person the impression that she had brought her office or (in this case) the Council into disrepute.

We conclude, however, that Cllr Maddison did not breach Paragraph 4.3 (a) by bullying or harassing any person. We saw nothing in the Facebook post to suggest that Cllr Maddison’s disrespect had crossed the line into bullying. We were not presented with evidence to suggest that the Facebook post was part of a pattern of behaviour, that her words were intimidating, (particularly) humiliating or threatening nor that she was using her power as a councillor (albeit now a marginalised councillor) to coerce an individual or group of individuals through fear or intimidation. We saw no evidence of harassment.

In reaching these conclusions we observe that, where Cllr Maddison or any other member believes there has been partisan behaviour or any other performance issue on the part of an officer with which they are unhappy, the officer has the right to expect, as set out within the Council's Constitution, Local Protocol - Member and Officers Relations, Paragraph 9.1(f)) (p. 381), that they will not be personally criticised by members in meetings of the Council, the Cabinet, or any Committee, or any meeting at which members of the public are present, or in the media.

If members are unhappy with an officer's performance, Paragraph 9(f) sets out that they shall raise the issue in private with an appropriate Director, Divisional Director or the Chief Executive in the case of posts at Director or Divisional Director level and above in accordance with Paragraph 16. Paragraph 16, and particularly 16.2(a), sets out the procedure for members complaining about an officer and covers alleged conduct by the Chief Executive. There was therefore an alternative process available to Cllr Maddison to raise her legitimate concerns. On this occasion Cllr Maddison chose an approach which ran contrary to that process.

9.3 COMPLAINT – CONCLUSIONS

Based on the evaluation above, which is itself based on the evidence available to us and the balance of probability, we conclude that:

Cllr Katya Maddison did not breach any of the paragraphs of the Torbay Council Code of Conduct for Members as a result of her behaviour at the end of the Council’s Annual Meeting which was held at the Riviera International Centre on 16th May 2024. Whilst Cllr Maddison caused offence to the Chief Executive, Anne-Marie Bond, by impugning her professional integrity in her remark to her as she passed into the Retiring Room with the Mayoral Party after the meeting, that remark was not made in public or in an aggressive or intemperate way and did not cross the line into gratuitous personal abuse. It was therefore afforded protection under Article 10 of the European Convention on Human Rights.

Cllr Katya Maddison breached two paragraphs of the Torbay Council Code of Conduct for Members as a result of making a Facebook post that related to the Council's Annual Meeting on 16th May 2024 later on the day of the meeting.

- **Cllr Maddison breached paragraph 4.2 (a) of the Code – “You must treat others with courtesy and respect” - in that she failed to treat officers with courtesy and respect.** She used intemperate language throughout the Facebook post. She referred to the Governance Support team as “Conservative Support” and challenged their impartiality by suggesting to a potentially wide readership that there was a chance that the team might withhold the publication of the video recording of the Annual Meeting. She painted “certain leading council officers” as being at the heart of the “sick institution” and “terrible entropy” which is Torbay Council.
- **Cllr Maddison breached paragraph 4.3 (h) of the Code - You must not conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute - in that she conducted herself in a manner that brought the Council into disrepute.** Her Facebook post constituted unreasonable criticism of officers and had the potential to reduce the public's confidence in the ability of Torbay Council and its officers to discharge the Council's functions impartially. Cllr Maddison presented the public with the impression that Torbay Council was a “sick institution” and “a terrible entropy” but gave no explanation as to why that might be the case.
- **Cllr Maddison did not breach paragraph 4.3 (a) of the Code – You must not bully or harass any person –** We saw nothing in the Facebook post to suggest that Cllr Maddison's disrespect had crossed the line into bullying or harassment.

10. RECOMMENDATION

On the basis of the conclusions above we make the following recommendation:

That the Monitoring Officer acts in accordance with the relevant paragraphs of the Protocol for the Assessment and Determination of Allegations of Breaches of the Members Code of Conduct.

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APPENDIX 1 – DOCUMENTS AND SOURCES

In the course of the Investigation, we reviewed a variety of source materials. These include the materials listed below. All dates are 2024 unless otherwise specified.

- (1) Torbay Council website <https://www.torbay.gov.uk/>
- (2) Torbay Council Code of Conduct for Members
<https://www.torbay.gov.uk/DemocraticServices/documents/s154038/29%20Members%20Code%20of%20Conduct.pdf>
- (3) Torbay Council Protocol for the Assessment and Determination of Allegations of Breaches of the members Code of Conduct
<https://www.torbay.gov.uk/DemocraticServices/documents/s154051/42%20Local%20Protocol%20for%20the%20Assessment%20and%20Determination%20of%20Allegations%20of%20Breaches%20of%20the%20Members%20Cod.pdf>
- (4) BBC News 26th October 2023 “Councillors quit Tory party and form new group”
<https://www.bbc.co.uk/news/articles/cg30wr3d8pro>
- (5) torbaytoday 26th November 2023 “[REDACTED]: Hats off to Prosper Torbay. Let’s hope it does”
[https://www.torbayweekly.co.uk/news/home/1357295/\[REDACTED\]-hats-off-to-prosper-torbay-let-s-hope-it-does.html](https://www.torbayweekly.co.uk/news/home/1357295/[REDACTED]-hats-off-to-prosper-torbay-let-s-hope-it-does.html)
- (6) Torbay Council News Release PR9001 – published on 26th October 2023 “Political balance at Torbay Council to change” <https://www.torbay.gov.uk/news/pr9001/>
- (7) Torbay Council News Release PR9102 – published on 15th April 2024 “We announce the death of Councillor Patrick Joyce” <https://www.torbay.gov.uk/news/pr9102/>
- (8) Guidance on Local Government Association Model Councillor Code of Conduct
<https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct#respect>
- (9) Wikipedia entry Torbay <https://en.wikipedia.org/wiki/Torbay>
- (10) Wikipedia entry Torbay Council https://en.wikipedia.org/wiki/Torbay_Council
- (11) Wikipedia entry 2023 Torbay Council election
https://en.wikipedia.org/wiki/2023_Torbay_Council_election
- (12) Video/audio recording of Torbay Council Annual Meeting on 16th May 2024
<https://www.youtube.com/watch?v=J8ilWCrG5ow>
- (13) Katya Maddison signed Declaration of Acceptance of Office dated 9th May 2023.
- (14) Heesom Judgement available on Landmark Chambers website at
<https://landmarkchambers.co.uk/wp-content/uploads/2018/05/Heesom.pdf>
- (15) [REDACTED] Facebook page [https://www.facebook.com/\[REDACTED\]](https://www.facebook.com/[REDACTED])
- (16) Torbay Weekly Facebook page <https://www.facebook.com/TorbayWeekly>

APPENDIX 2 - TIMELINE

We were asked to provide information regarding the timeline of the Investigation. We have set that out below.

<u>Date</u>	<u>Event</u>
17/06	Proposal submitted to Lisa Antrobus (LA) – Investigation expected to begin “soon after the General Election”.
20/06	LA accepts proposal on behalf of the Monitoring Officer, Amanda Barlow (AB)
22/07	Melvin Kenyon (MK) invites Anne-Marie Bond (AMB) to speak to him in late July.
31/07	MK speaks to AMB.
05/08	MK invites Nicole Amil (NA) to speak to him on 09/08.
06/08	MK submits Draft Summary of conversation to AMB.
08/08	MK invites Mark Spacagna (MS), Hannah Stevens (HS) and Martin Brook (MB) to comment on what happened at the Riviera Internation Centre on 16/05.
08/08	HS provides comment.
08/08	MB about to go on holiday and will comment on his return.
09/08	MK speaks to NA.
19/08	MS provides comment.
22/08	AMB comments on Draft Summary and MK issues Final Summary of conversation.
24/08	MK submits Draft Summary of conversation to NA.
29/08	MK invites Katya Maddison (KM) to speak to him and offers dates between 6 th and 12 th September.
01/09	MK prompts MB for comment.
01/09	MK prompts NA for response to Draft Summary.
01/09	NA replies saying she will review the summary “next week”.
03/09	KM replies asking for details of the scope of the Investigation. MK asks LA to provide KM with scope. LA resends earlier communication to KM.
05/09	KM offers a conversation possibly from a local McDonalds on 06/09 but prefers 13/09 (which was never on offer because MK is on holiday between 12/09 and 27/09).
09/09	MK prompts MB for comment.
09/09	MK prompts NA for response to Draft Summary.

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- 10/09 NA and MK speak about Draft Summary, which is then reissued as a Final Summary with amendments.
- 12/09 MB replies with brief comment but promises further comment.
- 12/09 MK speaks to KM before going on holiday until 27/09.
- 25/09 MB provides detailed comments (a family bereavement had caused delay).
- 03/10 MK issues Draft Summary to KM soon after his return from holiday asking for comment by 15/10 after his return from (another) holiday.
- 18/10 MK prompts KM for comment on Draft Summary.
- 21/10 KM comments on Draft Summary. MK provides revised Draft Summary. Final Summary agreed.
- 22/10 MK begins writing Draft Report.
- 25/10 MK submits Draft Report to LA following peer review.
- 16/11 MK issues Draft Report to AMB and KM for comment following review by AB.
- 28/11 MK issues Final Report (dated 28/11) to AB.
- 06/12 Following representations by KM, AB extends deadline for comment to 13/12.
- 11/12 KM submits comments to MK.
- 13/12 MK reissues Final Report (dated 13/12) to AB.

APPENDIX 3 – INDEPENDENT PERSON’S COMMENTS

Report of the Independent Person on the Investigation carried out into allegations that Councillor Maddison has breached the Members Code of Conduct

Over the past 12 months I have been called upon as Torbay Council’s Independent Person, to view a number of the recordings of the Council meetings of Torbay Council. Overall, the behaviour I have witnessed has been that of tit-for-tat, one upmanship, constant battle for gaining the upper hand. With all Members appearing to me to be frustrated with each other. Members have discussed in Council meetings and on social media the renegeing on promises and decisions, but to me all are as guilty as each other of such action. Since Councillor Maddison and one other renegeed on their commitment to the electorate as Conservative candidates, a constant power struggle has taken place with opposition Members undoing the decision of Chair positions, then following the untimely passing of Councillor Joyce, the Conservatives removing their support for the Mayoral position to be held by the opposition. The meeting to which this complaint pertains to was no different to those that I have viewed over the past 12 months. In my opinion, the integrity of Councillors on both sides has been called into question, there are two factions that clearly can’t stand each other. Given that numbers changed following the by-election in the Wellswood Ward, in Torquay, what happened with the Mayoral position in my opinion, is what the public, and every councillor would have expected.

I have received a copy of the Investigators Report and concur with its findings.

Councillor Maddison confirmed that she did make the comment ‘shame on you Anne-Marie’. However, whilst I believe this comment was heard by others in the immediate vicinity, the remark was said rather than shouted. Personally, I do not find the comment particularly derogatory or upsetting and borne out of a view that Councillor Maddison assumed Anne-Marie Bond, as the Council’s Chief Executive, could have done something differently. There were lots of comments regarding what was perceived as partisan behaviour by Anne-Marie Bond but Councillor Maddison nor others have provided any evidence of such behaviour or provided any law or direction from the Council’s Constitution that a different approach to what happened at the meeting could have taken place. It seems to me that Councillor Maddison was of the mistaken view that Anne-Marie Bond could have done more, rather than doing anything wrong.

With regards to the comments written on Facebook by Councillor Maddison, I am in total agreement with the Investigation Reports findings. Such comments are disrespectful towards officers, especially when no evidence of bias has been provided or evidence that officers have acted incorrectly. Nothing in Councillor Maddison’s statements show that Governance Support, nor the Council have done anything wrong – she has just vented. If Councillor Maddison could have pointed at something that Anne-Marie Bond or Governance Support officers could have done differently, then it might be different, but she hasn’t – arguably the comments were just sour grapes.

I agree with the Investigation Report findings that the comments didn’t amount to bullying, as they were not against a single individual but rather an attempt to taint all with same brush.

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I do believe an appropriate response to the Investigation Report findings would be for Councillor Maddison to make a public retraction of her comments against Officers, as her comments were unfounded, as there has been no evidence provided that demonstrates any favouritism.

Councillor Maddison needs to recognise that there are consequences, and significant costs of making unfounded comments in public and that the public need to know that there was no evidence of bias or favouritism. I do therefore believe that Councillor Maddison should make an apology to Officers and in particular, Governance Support Officers at a Council meeting, that is to the satisfaction of Monitoring Officer.

However, I accept sanctions are a matter for the Standards Committee to determine.

APPENDIX 4 – COMMENTS MADE ON THE DRAFT REPORT

The Draft Report was sent out to both Complainant and Subject Member soon after 7pm on Saturday 16th November. It was dated as such.

The covering email to both included the following: “Please send me your comments by close of business on Wednesday 27th November. If I do not hear from you by then I will assume you are content with the Draft Report. I will note your lack of response in the Report and will then issue the Final Report to the Monitoring Officer for her action.”

Anne Marie-Bond Comments

Ms Bond replied on 24th November. Her substantive comment was as follows: *“[O]n the analysis of the encounter at the English Riviera Centre, I am struggling to understand your determination that a 'maximum' of 5 individuals heard that which Cllr Maddison said to me. It is clear from the statements that there were a significant number of people in a confined space, with Councillors, members of the public and a journalist there. I believe that the evidence indicates that a minimum of 5 individuals heard that which Cllr Maddison said, with no evidence of the maximum number that heard the same. I would ask that you give further consideration to this point in the finalisation of your report.”*

We reflected on those comments and made some amendments to the wording of the Draft Report before publishing it as the Final Report.

Cllr Katya Maddison Comments

Cllr Maddison replied on 18th November. Her comments were as follows: *“One single item stands out to me. I am shocked by the comments from the Conservative councillors suggesting they all heard what I said to Anne Marie Bond. Moreover they claim that they heard it two times, despite their being on the move, sweeping into the mayoral room. This seems to me highly improbable and it is completely at odds with my memory of events. I am quite frankly disturbed to find these claims being made. I understand no breach of terms is deemed to have taken place in regard to this element of the complaint, however I feel I must state this. I also do not at all remember making derogatory remarks about Cllr Brooke’s faith, am not in the habit of making comments about people’s faiths, and consider this a slur.*

“As regards the second part of the complaint. I need to reread it a couple of times more to come to a conclusion on whether I think the finding is fair. I believe the guidelines you have used to come to a decision are balanced by others which are not quoted here, but which I accessed some weeks ago and referred to in our conversation. I will probably take advice before coming to a settled conclusion.”

We had received no further comments from Cllr Maddison by the time we revised the Draft Report on the afternoon of 28th November, after the deadline for comment had passed at close of business the following day.

APPENDIX 5 – SUBJECT MEMBER COMMENTS MADE ON THE (FIRST) FINAL REPORT

Our Final Report was sent out to the Monitoring Officer for her action on 28th November. Following interactions between Monitoring Officer and Subject Member, the Subject Member was afforded more time in which to comment on the Final Report (see 6.3 above). Her summary points, rather than her entire submission, which was received on 11th December, are set out below.

The reader should note that uses below by the Subject Member of the acronym “IP” refer not to one of the Council’s Independent Persons (see Appendix 3) but to the *Independent Investigator* who carried out the Investigation and prepared the Draft and Final Reports.

ENCOUNTER IN THE RIVIERA INTERNATIONAL CENTRE

Writing about what she called Complaint #1 (the encounter in the Riviera Centre) the Subject Member summarised her comments as follows:

1. The testimony of the 3 councillors was on the balance of probabilities false.
2. That AMB shows some uncertainty with regard to their testimony early on but fails to signal it is unreliable when their testimony is presented by the IP as accepted evidence.
3. This raises a question about her motivation and the nature of their relationship and the discussions which took place.
4. That the opportunity to examine events from this angle has been missed, leaving only probability judgements.
5. Inference and judgement have been widely used in this Complaint and the IP previously confirmed that inference and probability play valid parts in the procedure, so I have permitted myself the use of them too.
6. That the opportunity has been missed to considerably strengthen my defence of Complaint #2

FACEBOOK POST

Writing about what she called Complaint #2 (the Facebook post) the Subject Member summarised her argument as follows:

1. That free speech protections apply to both outstanding elements 4.2(a) and 4.3(h) of the second complaint and that no justification has been established for undermining the primacy of those protections over the statute of the Council.
2. That evidence indicates comments on which the IP relies on for his support of the Complaint can be demonstrated to have factual foundation, provoking the questions – if a comment tells the truth, is it discourteous? That councillor activity may be a cause of embarrassment, upset, and a reason for defensive anger. It then becomes harder to argue that harm has been caused by me.
3. That the reasoning for the IP’s support of the complaint is undermined.
4. That the muzzling of a councillor may form part of the motivation for the complaint. That proper engagement with the political character of this complaint has not occurred in the report and would be helpful in informing engagement with evidence.

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5. That there is a Public Interest component to this Complaint that needs to be considered and a risk that interference with my right of free speech will affect the ability of future Torbay Councillors to communicate truth to the public.
6. That in the absence of adequate caselaw justifying a breach of 4.3(h), common sense can establish that “bringing the council into disrepute” is not proven here.
7. That the presentation of all the “comments” as a mass in the report is prejudicial to the committee process
8. That complaint 4.2(a) relating to the obligation to treat others with respect and courtesy is understood, but Article 10 protections take priority.
9. That case precedent suggests a member may be critical of a department in a council, or of a whole council without being found to have “brought the council into disrepute”.
10. That there is useful commentary from Ombudsmen in Wales and Scotland suggesting free speech may be unpleasant, but it will still be protected and this means thicker skins are required by those working in councils and the public realm.