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Dear Member

CABINET - TUESDAY, 18 MARCH 2025

I am now able to enclose, for consideration at the Tuesday, 18 March 2025 meeting of the Cabinet, the following reports that were unavailable when the agenda was printed.

Agenda No	Item	Page
11.	Member Champion for Culture	(Pages 3 - 12)

Yours sincerely

Lisa Antrobus
Clerk

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Meeting: Cabinet

Date: 18 March 2025

Wards Affected: All Wards

Report Title: Member Champion for Culture

Is the decision a key decision? No

When does the decision need to be implemented? Upon conclusion of the Call-in process

Cabinet Member Contact Details: Councillor David Thomas, Leader of the Council, david.thomas@torbay.gov.uk

Supporting Officer Contact Details: Matthew Fairclough-Kay, Director of Corporate Services, matthew.fairclough-kay@torbay.gov.uk

1. Proposal and Introduction

- 1.1 Member champions are elected members who act as an advocate or spokesperson for a specific area of the Council's business. The main responsibility of each member champion is to encourage communication and positive action over the issue they represent. A full job description for Member Champions is set out in Annex 1 to the Local Protocol on Member Champions within the Council's Constitution.
- 1.2 At the Cabinet meeting on 19 September 2023, the Cabinet appointed Councillor Maddison as the Member Champion to champion key aspects of the Council's work in respect of Culture.
- 1.3 Subsequently, on 11 February 2025 the Standards Hearing Sub-Committee considered a complaint that Councillor Maddison has breached the Code of Conduct for Members. In their determination, the Standards Hearing Sub-Committee made a recommendation to the Leader of the Council in respect of Councillor Maddison's appointment as the Member Champion for Culture, as set out in Appendix 1.

2. Reason for Proposal

- 2.1 To acknowledge and respond to the recommendation of the Standards Hearing Sub-Committee held on 11 February 2025. The Cabinet recognise that the Standards Hearing Sub-Committee recommended temporary removal until training had been undertaken. However, given Councillor Maddison's behaviour at Council on 27 February 2025, that the Cabinet considers removal from the position to be the most appropriate course of action.
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3. Recommendation(s) / Proposed Decision

- (i) that in light of Councillor Maddison's behaviour at Council, that Cabinet considers whether Councillor Maddison be removed from the position of Member Champion for Culture; and
- (ii) that the Leader of the Council ask all Members for expressions of interest in undertaking the role if she is to be replaced

Appendices

Appendix 1 Standards Hearing Sub-Committee Record of Decision

Record of Decision

Standards Hearing Sub-Committee – allegations of misconduct made against Councillor Katya Maddison

Decision maker

The Standards Hearing Sub-Committee at its meeting held on 11 February 2025.

Finding of Fact

The Standards Hearing Sub-Committee considered carefully all the written and oral evidence before them and found as fact, the following:

In respect of the Comment made to Anne-Marie Bond at the Conclusion of the Council meeting, the Standards Hearing Sub-Committee unanimously found:

1. Councillor Maddison confirmed that she did say the words ‘Shame on you Anne-Marie’, to Mrs Bond. Words which were then repeated, when asked,
2. The words ‘shame on you’ had been shouted by others during the course of what became a hostile meeting, to express dissatisfaction, and therefore it is reasonable to conclude that by making specific reference to Mrs Bond, Councillor Maddison deliberately sought to make the comment direct and personal in nature towards Mrs Bond,
3. The comment was said at a point where the recording of the Mayoral party leaving the chamber shows a number of people who already had demonstrated their disapproval by leaving the chamber were waiting, in the area to which the Mayoral party retired and disrobed,
4. That the comment was made in a confined public setting, where there was a large number of individuals, comprising of elected Members, members of the public and the press a public setting and immediately after the conclusion of the meeting, in an assertive and confrontational manner, where tensions were high.
5. Members were satisfied on the evidence before them, that on the balance of probability, at least five others heard Councillor Maddison make the comment to Mrs Bond,
6. In considering the case of *Heesom v Public Service Ombudsman for Wales* [2014] EWHC 1504 (Admin), Members found that there was no factual basis to Councillor Maddison’s comment, though accepted it was an honestly held belief but one arrived at incorrectly and would have been known, as there is no provision within the Council’s Constitution that Mrs Bond in her role as an officer, could have directed Members to vote in a particular way and therefore the comment was not tolerable and crossed the line into what they found to be

gratuitous and personal abuse and therefore, the enhanced protection afforded to Councillor Maddison as an elected Member, in her right of freedom of expression under article 10 of the European Convention of Human Rights, was not engaged.

In respect of the Facebook post made by Councillor Maddison the Standards Hearing Sub-Committee unanimously found:

1. Councillor 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;
2. Members found that her words were unpleasant, impolite, abusive and disrespectful to Council Officers;
3. The tone and style of the language chosen in the Facebook post, the lack of detailed evidence and general attack on "leading officers" and the suggestion that the Governance Support team 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, and to undermine them in the performance of their duties. There were alternative means open to Councillor Maddison, as set out in the Council's Constitution in the Member and Officer Local Protocol to raise specific concerns which would have allowed these to have been appropriately considered in the prescribed manner; and
4. 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. Councillor Maddison provided no supporting evidence for the suggestion and the reasonable person in reading that would have formed a low opinion of the Council and its lawful operation.

Code of Conduct for Members

Having determined the findings of fact, the Standards Hearing Sub-Committee unanimously concluded that Councillor Maddison had failed to follow, the following paragraphs of the Code of Conduct for Members:

- 4.2(a) You must treat others with courtesy and respect.
- 4.3(a) You must not bully or harass any person
- 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.

Sanctions:

Having determined that Councillor Maddison had failed to follow the paragraphs of the Code of Conduct for Members set out above, Members considered it appropriate and proportionate to impose the following sanctions:

1. That Councillor Maddison undertakes training on the governance of a Council and the required procedures and protocols, to be arranged by the Head of Governance.
2. That Councillor Maddison reads and familiarises herself with the Local Protocol on Member and Officer Relations as set out in the Council's Constitution.
3. That Councillor Maddison makes an unequivocal apology to the satisfaction of the Council's Monitoring Officer, at the next full Council meeting, which is scheduled for the 27 February 2025, for her comment towards Mrs Bond and her Facebook post, given that both incidents were public in nature and to ensure confidence in the Council is maintained. Furthermore, Councillor Maddison writes an apology to the satisfaction of the Monitoring Officer, to Mrs Bond for the comment made directly to her, and to the Governance Support Team and the Council's Senior Leadership Team for the Facebook post made.

Recommendations by the Standards Hearing Sub-Committee Members:

That the Leader of the Council, be recommended to consider suspending Councillor Maddison from the position of Member Champion for Culture, until training on the governance of a Council and the required procedures and protocols has been undertaken by Councillor Maddison and completed successfully.

That the Independent Group Leader be recommended to consider suspending Councillor Maddison from all Committees and Council appointed outside bodies to which she represents the Council, although Councillor Maddison can continue in her role as a ward Councillor during this period, until training on the governance of a Council and the required procedures and protocols has been undertaken by Councillor Maddison and completed successfully.

Procedural Considerations and Reasons for Decision:

Councillor Maddison is a Councillor for the Shiphay Ward of Torquay, having been elected on the 4 May 2023. Councillor Maddison signed her Declaration of Acceptance of Office on the 5 May 2023 and in doing so, agreed to observe the Code of Conduct which is expected of members of Torbay Council.

Members determined at the time complained of Councillor Maddison was acting in her official capacity as a Councillor.

Members had careful regard to the procedural requirements of this written complaint before them which was received on the 16 of May 2024 and were unanimously satisfied that the Local Protocol for the Assessment and Determination of Allegations

of Breaches of the Members Code of Conduct, as set out in the Council's constitution, had been correctly followed.

Members were also satisfied that Councillor Maddison had been made aware of and provided with a copy of the written complaint on the 20 May 2024 by letter from the Council's Monitoring Officer, along with the associate screenshot referenced therein.

Members noted that Councillor Maddison had failed to respond to the letter from the Monitoring Officer, dated 20 May 2024, which set out that the alleged behaviour could amount to a breach of the Code of Conduct. Whilst Councillor Maddison's legal representative submitted at the Standards Hearing Sub-Committee hearing that Councillor Maddison did not respond because she did not dispute what she had said, Members in noting the wording of the letter read out by the Council's Monitoring Officer at the hearing, did not accept this explanation as it could be said, that in accepting this submission, Councillor Maddison also accepted that she had failed to treat others with courtesy and respect, that she had bullied and harassed and that she had conducted herself in a manner or behaved in such a way so as to give a reasonable person the impression that she had brought her office or the Council into disrepute. All of which did not accord with the oral evidence given by Councillor Maddison and her legal representative at the Standards Hearing Sub-Committee hearing, nor that set out in Councillor Maddison's late finding of fact form received by the Council the afternoon before the meeting of Standards Hearing Sub-Committee.

Members further noted that in the absence of a response from Councillor Maddison, and to enable the Monitoring Officer to determine the complaint which the Monitoring Officer deemed to be sufficiently serious, the Monitoring Officer required that the complaint be investigated to determine whether there had been a breach of the Code of Conduct for Members and the seriousness of the breach, in accordance with the Council's Local Protocol for the Assessment and Determination of Allegations of Breaches of the Members Code of Conduct. This provided Councillor Maddison with a second opportunity to respond to the allegations made against her by the complainant.

Given that the complaint had been made by the Council's Chief Executive, who was also the Head of Paid Service, and to ensure no conflict of interest arose and to protect the integrity of the process and in turn, provide for complete fairness to all parties, Members agreed with the Monitoring Officer's determination that it was appropriate that an external and independent Investigator be appointed. Had Councillor Maddison responded to the letter of the 20 May 2024, it is likely that an investigation would not have been required.

The findings of the investigation set out that Councillor Maddison had breached the Code of Conduct for Members and Members determined that the Monitoring Officer had rightly referred the matter to the Standards Hearing Sub-Committee, in accordance with Annex B of the Council's Local Protocol for the Assessment and Determination of Allegations of Breaches of the Members Code of Conduct.

Members noted that the Monitoring Officer wrote to all parties on the 20 December 2024, giving a deadline of the 10 January 2025 by which to submit confirmation of their attendance, whether they will be represented, names of any witnesses they will

be bringing to the hearing, what finding of fact (if any) they dispute in the Investigators report and provided therein a document which set out those findings, and any other matter they would like to be taken in to account. Members noted that a response was received by Anne-Marie Bond on the 9 January 2025, but that Councillor Maddison had failed to provide a response by the required deadline. However, Councillor Maddison did confirm on the 23 January 2025 that a Mr. Stuart Benson would be advising and representing her and Mr Benson returned the completed finding of fact form on the 10 February 2025 at 12:31 which all Standards Hearing Sub-Committee Members considered, despite its lateness, and in preparation of the hearing the following day.

Having carefully considered the written and oral submission from all parties, Members departed from the opinion of the Independent Person and the Investigators findings and conclusions in respect of the incident at the conclusion of the Council meeting, as it became apparent to Members on the evidence before them, that not all individuals referenced in the investigation had been interviewed. In that the Investigator had only approached Councillors Spacagna, Stevens and Brook by email, thereby resulting in further explanation of their experience of the event being shared at the Hearing which Members determined materially changed the outcome of the findings.

Members unanimously accepted the explanations given by Councillor Spacagna in his subsequent witness statement and Councillors Stevens and Brook, having been satisfied that with the events explained in respect of the Civic Mayor not being able to initially locate the key to the disrobing room and how this would have resulted in them being in the immediate vicinity and in close proximity to Councillor Maddison when she made the comment 'shame on you Anne-Marie', to which all three confirmed that they had heard the comment made.

In consideration of Councillor Amil's oral submissions, Members recognised that Councillor Amil could only account for what she heard and was involved in, at the time she was standing next to Councillor Maddison. Members further noted that Councillor Maddison repeated the comment, not because Anne-Marie Bond did not hear it the first time, but because she had hoped that Councillor Maddison had not said the words which she repeated. Therefore, it is feasible that Councillor Amil was not aware of what else was going on around her in respect of the key issue and Councillor Amil gave no evidence at the hearing that she could see what others were doing.

Having subsequently heard oral testimony and determined that the comment was made in a public setting, with public and press in close proximity, Members were satisfied that on the balance of probabilities at least five people had heard the comment made by Councillor Maddison of which she does not deny saying. Furthermore, given the close proximity of other persons in what was a confined area, it is highly probable that many more heard the comment, which in Members opinion, called in to question the integrity, impartiality, and professionalism of the Council's most senior officer and was conduct contrary to the trust to be held between Members and Officers.

Where Councillor Maddison believed that Anne-Marie Bond had conducted herself in a manner which justified the comment made, Councillor Maddison could have formally raised these concerns in accordance with the Council's Local Protocol for Officer and Member Relations, a procedure Councillor Maddison is aware of, but instead Councillor Maddison chose a course of conduct in a public setting, which in Members opinion, was personally abusive, gratuitous, disrespectful and bullying in nature and brought the Council in to disrepute, as any person hearing that comment is likely to hold a lower opinion of the Chief Executive and in turn the Council, believing as elected Member, that Councillor Maddison would have known the workings of the Council and privy to information that the public would not and could therefore feasibly consider such comments to be true, despite it having no factual basis.

In determining the environment, context and manner in which Councillor Maddison made her comment towards Anne-Marie Bond as an officer, Members carefully considered whether the enhanced protections set out in Article 10 of the European Convention of Human Rights could be relied on and unanimously determined, it was 'no'.

In coming to that decision, Members had careful regard to the case of *Heesom v Public Service Ombudsman for Wales* [2014] EWHC 1504 (Admin), and whilst satisfied that the comment arose out of an honest held belief, Councillor Maddison had failed to provide any supporting evidence to the Investigator, nor at the hearing which would substantiate this belief, to one made on a factual basis and with truth. Furthermore, Members weighed up the interest of open discussion of matters of public concern and the importance public interest that officers are not subject to unwarranted comments which disenable them from performing their public duties and undermine public confidence in the administration, and found that without factual basis or truth, Councillor Maddison would have known her comment to be false, and therefore not tolerable.

Members noted the Advisory, Conciliatory and Arbitration Services definition of bullying being a one-off event or multiple occasions. The complaint stated that Anne-Marie Bond felt humiliated, denigrated and that her reputation had been injured, whilst the complaint has been separated into two elements, the comment and subsequent Facebook post later that same day, Members considered both incidents were bullying in the form of 'one-off events' but could actually be viewed as multiple occasions of bullying of Anne-Marie Bond. Whilst Members accepted the submission that Councillor Maddison did not make the comment in a loud, shouting manner, in Members opinion, they determined that it that does not make it any less intimidating or diminish the impact that her comment had, after all bullying isn't always obvious or noticed by others.

In being invited to comment on evidence which did not form part of the initial investigation, the Investigator noted similarities in Councillors Spacagna, Stevens, and Brook's submissions and implied that such similarities were unusual. However, in determining this, Members expected there to be similarities given that they were in the same place, at the same time, and experiencing the same environment.

In consideration of the Facebook post made by Councillor Maddison, Members found no reason to depart from the opinion of the Independent Person, nor the findings of the Investigator, in that Councillor Maddison had breached the Code of Conduct for Members. Namely, that Councillor Maddison had failed to treat others with courtesy and respect, had conducted herself in a manner that brought the Council into disrepute. However, in taking into account the Advisory, Conciliatory and Arbitration Services definition of bullying being a one-off event or multiple occasions, Members unanimously agreed that Councillor Maddison's Facebook post did amount to bullying, in that it crossed the line in to what they saw as being abusive, ridiculing, demeaning, humiliating and intimidating.

In determining this, Members were of the opinion that the average reader of Councillor Maddison's Facebook post, given that Councillor Maddison's Facebook account to which she posted from, identifies her as a Councillor at Torbay Council, would believe that the post could be true as it was made by a Councillor of the Council, who a reasonable person would expect to know more of the workings of the Council and privy to information that the public would not and could therefore feasibly consider such comments to be true. This is despite Councillor Maddison failing to provide substantive evidence to the Investigator, nor at the hearing which would render the comment to have been made on a factual basis.

In addition, many of those referenced in the Facebook post are easily identifiable within the structure of the Council and are front facing officers who come into daily contact with members of the public, including some of which are junior members of staff, and in Members unanimous opinion, if left unchallenged, unwarranted comments such as those made by Councillor Maddison which disenable them from performing their public duties and undermines public confidence in the administration, would not be in the public interest and therefore it was right in Members opinion, that the Chief Executive, as Head of Paid Service of the Council, put forward this complaint.

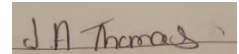
In concluding, Members were unanimous in their opinion, that any reasonable bystander, would have been disappointed by the conduct of Councillor Maddison and considered her behaviour to have fallen short of the high standards that the public should expect of those elected to represent them.

Reasons for Sanctions Imposed:

In finding that Councillor Maddison had breached the Code of Conduct for Members and in consideration of the comment made by the Independent Person in respect of a sanction, noting that the Investigator did not believe it was for him to make any recommendations in this regard but instead it was a matter for the Standards Sub-Committee Members to determine, Members unanimously resolved that Councillor Maddison should make a public apology at the next Council meeting to be held on the 27th February 2025, as the comments made by her which are set out in the complaint before them, were made publicly.

It was of concern to Members that in both her written and oral representations and that put forward by her legal representative, Councillor Maddison failed to accept that her conduct fell below the standard reasonably expected of an elected Member and

showed no remorse. Therefore, to maintain the high standards expected of an elected Member and to mitigate against further breaches of the Code of Conduct for Members, Members determined it appropriate and proportionate to recommend that Leader of the Council considers suspending Councillor Maddison from the position of Member Champion for Culture and that the Independent Group Leader considers suspending Councillor Maddison from all Committees and Council appointed outside bodies to which she represents the Council, until such time that Councillor Maddison reads and familiarises herself with the Local Protocol on Member and Officer Relations, as set out in the Council's Constitution and undertakes successfully, training on the governance of a Council and the required procedures and protocols.



Chairwoman of the Standards Hearing Sub-Committee