

Former councillor cleared of code breach

After a day long hearing before the Standards Commission for Scotland, former councillor John McLellan has been – on the one hand – found to have breached the Councillors’ code of conduct, but the commission conceded that a formal finding “could not be made”.

Paul Walker, Standards Commission Member and Chair of the Hearing Panel, said: “In this case, the Panel found that former Cllr McLellan’s conduct towards the solicitors present at the meeting was inappropriate.”

The Panel heard that former Cllr McLellan had attended a private meeting organised to allow councillors to read a report on alleged historic abuse within the council, which had been prepared by solicitors from an external legal firm, Pinsent Masons.

Having heard from several witnesses at the Hearing, the Panel was satisfied, on balance, that former Cllr McLellan had been unhappy with one recommendation in the report and had behaved in an inappropriate manner by raising his voice and expressing views on it in an aggressive and challenging manner.

As such, the Panel found that former Cllr McLellan had failed to treat the solicitors present with courtesy and respect, as

required by the Councillors' Code of Conduct.

The Panel noted that it was not in dispute that former Cllr McLellan used his mobile phone during the meeting to listen to a voicemail from a journalist. The Panel was satisfied that former Cllr McLellan advised the only solicitor present in the room at the time, that the journalist wanted to know what was in the report and when it would be made public, and asked whether the solicitor wished to speak to him.

The Panel noted that former Cllr McLellan's position was that he had done so as a joke and in seeking to be open. The Panel was satisfied, however, that former Cllr McLellan had been warned that the use of mobile phones during the session was not allowed due to the sensitive nature of the report, and the need to ensure it remained confidential.

The Panel agreed, in the circumstances and in the context of the contents of the report, that former Cllr McLellan's use of the phone and his offering of it to one of the solicitors, in the context of him mentioning contact with a journalist, was both entirely inappropriate and disrespectful.

The Panel accepted, nevertheless, that former Cllr McLellan was entitled to the enhanced right to freedom of expression afforded to politicians commenting on matters of public interest, under Article 10 of the European Convention on Human Rights.

The Panel found that former Cllr McLellan's behaviour was not sufficiently offensive, abusive or gratuitous as to justify a restriction on that enhanced right to freedom of expression, that a finding of a breach of the Code and imposition of a sanction would entail. As such, the Panel concluded overall that a breach of the Code could not be found.

Mr Walker said that: "The Panel emphasised that the requirement for councillors to behave in a respectful and courteous manner towards members of the public is a

fundamental requirement of the Code, as it protects the public and also ensures public confidence in the role of an elected member and the council itself is not undermined. Failing to uphold the values the public are entitled to expect only serves to contribute to poor standards of public debate.”

A full written decision of the Hearing will be issued and published on the Standards Commission’s website within 7 days.

Mr McLellan, who is also a journalist, and former editor with The Edinburgh Evening News and The Scotsman, as well as Director of the industry body, Newsbrands Scotland, told The Edinburgh Reporter: “I am satisfied the panel recognised the right of councillors to challenge clearly political material in official reports which seeks to influence the terms of public debate.

“This has been a difficult process for me, but an important point of principle has been reaffirmed.”



Former councillor, John McLellan second from left on duty on 5

July 2023 posing with other High Constables when His Majesty The King received the Honours of Scotland. PHOTO ©2023 The Edinburgh Reporter