

# **John McLellan cleared of breach of councillors' code despite "disrespectful" behaviour**

**A former Edinburgh councillor has been criticised by a standards watchdog for being "entirely inappropriate and disrespectful" during a meeting with junior lawyers – but was cleared of a breach of the councillors' code of conduct due to his "enhanced right to freedom of expression".**

John McLellan was brought before the Standards Commission for Scotland after it was alleged he "lost the plot" and turned "as red as a tomato" in response to councillors being urged not to "seize upon" a report on historic sex abuse in the council "for political gain".

The former Conservative councillor told a hearing he was "shocked" at the recommendation made to elected members and raised his voice so his points were "heard clearly".

However, he denied shouting, banging his fists on the table and 'wagging' his finger in anger – which it was claimed made a young female solicitor feel "really uncomfortable, nervous, upset and distressed" during the meeting in 2021.

In a report, the Commission said Mr McLellan, who did not seek re-election last year, behaved “in an inappropriate manner by raising his voice and expressing views on [the report] in an aggressive and challenging manner”.

But the panel concluded a “formal finding of breach could not be made” as he 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 of Human Rights](#).

Following the decision, Mr McLellan said: “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.”



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Julian Diaz-Rainey, a partner at the law firm, wrote to the council afterwards reporting “manifestly unacceptable behaviour” by Mr McLellan, who was accused of shouting and banging his fists in protest at a section of the sensitive report which stated findings should not be “seized upon by elected members or their parties and used for political gain”.

Mr Diaz-Rainey also said it was “disgraceful” the former councillor had listened to a voicemail from a journalist during the meeting despite being asked not to use his phone and jokingly asked one of the two female lawyers present “shall I just pass the phone to you to comment?”.

He added at the hearing this week: “It’s a shame that conduct took place, particularly during such a sensitive matter, an important matter for survivors.”

Alexander Richardson a solicitor with Pinsent Masons, who was in the room next door at the time of the incident, told the panel he heard a “raised voice” through the wall.

He said: “I do remember thinking to myself ‘that’s quite odd, I wonder what that’s about.’”

Mr Richardson said there had been an insinuation by Mr

McLellan there was "some form of corruption on our part which is frankly outrageous" adding: "We had nothing to gain whatsoever from the issue."

He said: "There is no vendetta against Mr McLellan – there is no conspiracy."

Hannah Beaumont, who was another of the lawyers in the room at the time, said he "raised his voice to a level that exceeded what I think was acceptable".

In a statement submitted to the Standards Commission she said his face went "as red as a tomato".

She said another female solicitor, who did not appear before the panel, was "shocked, taken aback and shaken" following the incident.

Ms Beaumont added: "I thought it was inappropriate to be speaking in that manner and to be shouting about a particular recommendation, particularly in light of the nature of the report and why we were all there."

However the other councillors who were present, Liberal Democrat councillor Neil Ross and Cllr Joanna Mowat, said they did not see Mr McLellan shouting, banging his fists or 'wagging' his finger about as had been claimed.

Cllr Mowat, also a member of the Conservative group, said in a statement if she thought staff were made to feel threatened or uncomfortable she would have "torn strips off" Mr McLellan.

She said: "He reiterated his point asking why this had been put in there, what it was doing in there and could this be changed?"

"There was shock and urgency in his voice...I didn't perceive that as shouting, just deep concern over what he had read.

"There was nothing that I saw that needed to be intervened or



stopped in the room.”

Upon being questioned by the panel Mr McLellan said he raised his voice so his “points were heard clearly”.

He said: “I couldn’t understand why the inquiry team felt it necessary to give instructions to councillors.

“What I sought to do was explain to them why I thought it was in everyone’s interests for that paragraph to be taken out. I think my voice was above conversation level but I did not shout.”

He said he had played the incident “over and over in my mind over the last two years” and added: “I’m still convinced I did not shout.”

He said: “I may have used hand actions but I did not jab my finger at anybody. Whether my face was as red as a tomato, I would need a mirror to know that.

“I explained that it would be in the company’s interests to remove that paragraph because there had been suspicion the relationship between the council and the company had been too close. I left the room thinking nothing untoward had happened.”

Mr McLellan also admitted listening to a voice message and offering the phone to one of the lawyers but said claims he was “pressing a junior member of the inquiry team to answer a call” in a provocative manner was a “gross exaggeration” of a “light-hearted moment”.

He said the allegation had been “devastating” as it had been suggested he was “an abuser of young woman” which was “as appalling as it gets”.

His lawyer, Campbell Deane, told the panel the the team of lawyers “took the hump” following the alleged outburst, and that an “inexperienced solicitor” had “overreacted” to the

situation.

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 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.”

by Donald Turvill Local Democracy Reporter



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