



10 October 2023

MEDIA RELEASE

FORMER EDINBURGH COUNCILLOR CLEARED OF BREACH OF COUNCILLORS' CODE

Following a Hearing held in Edinburgh on 9 October 2023, former City of Edinburgh Councillor John McLellan was found by the Standards Commission to have breached the Councillors' Code of Conduct, on the face of it, for failing to behave with courtesy and respect during a meeting held in October 2021. However, as former Cllr McLellan was entitled to enhanced protection to his freedom of expression, a formal finding of breach 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.

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 stated 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.

ENDS

NOTES FOR EDITORS

1. Complaints about councillors are made to the Ethical Standards Commissioner (ESC). The Standards Commission and ESC are separate and independent, each with distinct functions. The ESC is responsible for investigating complaints. Following investigation, the ESC will refer its report to the Standards Commission for Scotland for adjudication. Email: info@ethicalstandards.org.uk, <https://www.ethicalstandards.org.uk/> Tel: 0300 011 0550
2. The [Standards Commission for Scotland](#) is an independent public body, responsible for encouraging high standards of behaviour by councillors and those appointed to boards of devolved public bodies including in education, environment, health, culture, transport, and justice. The role of the Standards Commission is to encourage high ethical standards in public life; promote and enforce the Codes of Conduct; issue guidance to councils and devolved public bodies and adjudicate on alleged breaches of the Codes of Conduct, applying sanctions where a breach is found.
3. The [Codes of Conduct](#) outline the standards of conduct expected of councillors and members of devolved public bodies. In local authorities, there is one Code of Conduct, approved by Scottish Parliament, which applies to all 1227 councillors elected to Scotland’s 32 Local Authorities.