

Sent by email to:

Dear

Public Standards
Conduct of Members of the Scottish Parliament
Complaint against Mr Anas Sarwar MSP

This letter is in response to your complaint, on behalf of Police Scotland Angels, dated 1 November 2021 about the conduct of Mr Anas Sarwar MSP. Thank you for taking the time to write to me.

The enclosed factsheet explains the types of MSP conduct that I can investigate. It also explains my role when a complaint has been received. You will see from the factsheet that the activity complained about has to be covered by one of the rules that govern MSP conduct in order for me to investigate it. Certain types of conduct are also specifically excluded from my remit.

I have concluded that I can't investigate your complaint further. This is because the conduct about which you have complained does not represent a breach of the Code of Conduct for MSPs ("the Code") or other relevant provisions and I therefore have to dismiss it.

I appreciate this will be disappointing for you. You will find more detail on my conclusions below. I hope this and the factsheet will help you understand my decision.

Your complaint

Mr Sarwar was a guest on BBC's Question Time on 21 October 2021. Your complaint is about a specific comment Mr Sarwar made during a discussion about covid-19 and vaccinations.

In answer to a question, Mr Sarwar stated: *"I would invest in test and protect, I would get the vaccine rollout ramped up, rather than - we know who's not vaccinated, we know where they live, we should be looking at door to door vaccinations, we should be looking at pop-up vaccination centres at colleges and universities."*

You have advised that after Mr Sarwar made this comment, many people contacted your organisation in a state of fear, alarm and distress.

Reasons for my decision

The factsheet refers to the “relevant provisions” or rules that MSPs are expected to follow. Your complaint did not indicate which of the relevant provisions you thought Mr Sarwar had breached.

You will see that I must follow the procedures set out in the Scottish Parliamentary Standards Commissioner Act 2002 (“the 2002 Act”). Under these procedures I must first determine whether the complaint is admissible. To be admissible, the complaint must:

- be about an MSP;
- not be specifically excluded from my remit; and
- appears to relate to conduct by the MSP that is in breach of the rules that MSPs are expected to follow (the relevant provisions).

Your complaint is about an MSP and is not specifically excluded from my remit.

However, I do not consider Mr Sarwar’s conduct as set out in your complaint, represents a breach of the Code or any of the other relevant provisions. In reaching my decision, I refer to the provisions of the Code relevant to the treatment of others, set out in section 7, which concerns MSPs’ general conduct:

Treatment of others

5. Members must treat the following individuals with courtesy and respect:

- other MSPs;
- parliamentary staff (including contractors providing services to the Parliament);
- their own staff and the staff of other MSPs.

6. Members must not behave in a manner towards those individuals in 7.5 or any individuals they are in contact with in their capacity as MSPs that involves bullying, harassment (including sexual harassment) or any other inappropriate behaviour.

You will note from this that the provision relating to treating others with courtesy and respect does not extend to the treatment of members of the public. As such, section 7.5 is not applicable to Mr Sarwar’s conduct in this case.

For this reason, Mr Sarwar’s comment on Question Time does not represent a breach of the Code under paragraph 5 of section 7.

In order for section 7.6 to be engaged, the MSP concerned has to be “in contact” with an individual and also acting in their capacity as an MSP.

Mr Sarwar’s comments were made during a televised political debate in front of a live studio audience and which the public continue to have access to on BBC iPlayer. I am satisfied Mr Sarwar was acting as an MSP as he appeared on Question Time to discuss political issues due to his role. I am not however satisfied that when he made the comment, Mr Sarwar was “in contact with members of the public” in the sense anticipated by the Code.

I nevertheless went on to consider whether Mr Sarwar's conduct involved "*bullying, harassment...or any other inappropriate behaviour*". I should clarify my view that "*any other inappropriate behaviour*" should be construed in the context of section 7.6 overall and that the behaviour referred to must be associated with, connected to or similar to bullying and harassment in order for the Code to apply to the conduct concerned. It does not have the effect of extending the courtesy and respect provisions to individuals who are not listed in section 7.5.

The Scottish Parliament have published guidance on the application of the Code. This guidance states the following:

Bullying and/or Harassment (the terms are often used interchangeably) occurs when an individual engages in offensive, intimidating, malicious or insulting behaviour which can make someone feel uncomfortable, vulnerable, upset, undermined, humiliated, denigrated or threatened. Bullying and/or harassment can be between two individuals or it may involve groups of people. It might be obvious or it might be insidious. It may be persistent or an isolated incident.

Protected Characteristic Harassment occurs when an individual engages in unwanted behaviour related to a relevant protected characteristic which has the purpose or effect of violating someone's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. It can be an isolated incident or persistent behaviour and is essentially about the effect on the recipient, not about what was intended. Relevant protected characteristics under the Equality Act 2010 are age, disability, gender reassignment, race, religion or belief, sex and sexual orientation.

I note your view that Mr Sarwar's comments caused fear alarm and distress. However, I am not persuaded that his conduct constitutes bullying or harassment.

Mr Sarwar was asked a question relating to covid-19 vaccinations and he gave his response. He did not direct his response towards any specific individuals. His response was a general remark of a political nature. Moreover, the comments do not relate directly to any of the protected characteristics noted in the guidance above.

For this reason, Mr Sarwar's comment on Question Time also does not represent a breach of the Code under paragraph 6 of section 7.

You will understand that, on this basis, I have concluded that your complaint is inadmissible for the purposes of the 2002 Act. I have therefore closed our complaint file on it.

I am now obliged by the 2002 Act to notify Mr Sarwar of my decision and will do so by sending him a copy of this letter. Your contact details will be redacted.

You will understand that, on this basis, I have concluded that your complaint is inadmissible for the purposes of the 2002 Act. I have therefore closed our complaint file on it.

Confidentiality

This process is conducted under the 2002 Act. I am obliged by the 2002 Act to notify Mr Sarwar of my decision and will do so by sending him a copy of this letter. Your contact details will be redacted so that your postal and email addresses won't be visible.

I would draw your attention to the confidential nature of my investigation and would request your full cooperation in this regard.

For information about how we process data we collect, including how we process personal data, please see our privacy policy at www.ethicalstandards.org.uk/privacy-policy.

Should you have any queries please contact my office on the following telephone number 0300 011 0550 or email investigations@ethicalstandards.org.uk.

Thank you again for writing to me to set out your concerns.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian Bruce', is positioned above the printed name.

Ian Bruce
Acting Ethical Standards Commissioner