



***ALWAYS*** with the  
**oppressed**

***NEVER*** with the  
**oppressor**

jvl.org.uk



## Observations on the Labour Party's Action Plan

Submission by Jewish Voice for Labour to the Equalities and Human Rights Commission

2 December 2021

### Introduction

- 1) These submissions ("the **Third Submission**") are made by Jewish Voice for Labour ("**JVL**"), in response to the invitation by the Equality and Human Rights Commission ("**EHRC**") to JVL's instructing solicitors ("**Bindmans**"), on 4 November 2021, to make further submissions in respect of JVL's concerns about the implementation of the Action Plan.
- 2) This invitation followed on from JVL's first and second submissions to the EHRC in August 2021:
  - a. 'How Labour's Claims of Countering Antisemitism Has Resulted in a Purge of Jews' ("**the First Submission**", sent on 5 August 2021); and
  - b. 'Supplementary Submission by JVL to the EHRC and Forde Inquiry' ("**the Second Submission**", dated 27 August 2021).
- 3) In the Third Submission, JVL wishes to raise two broad issues:
  - c. the continued unfair targeting of Jewish members of the Party and in particular Jewish members with particular beliefs set out in further detail below, which appears to be entirely contrary to the findings of the EHRC Report and the purpose of the Action Plan; and
  - d. the unfair procedures the Party is continuing to follow in respect of disciplinary proceedings against individual members, in breach of principles of fairness, natural justice and recommendations made by both the EHRC, and by Baroness Shami Chakrabarti in her report published on 30 June 2016, following her inquiry into antisemitism in the Party (the "**Chakrabarti Report**").

### The Party's failure to understand antisemitism

- 4) As a preliminary point, JVL considers that the failure of the Party to introduce a fair process to tackle antisemitism has resulted from its failure to properly understand antisemitism.
- 5) JVL draws attention to the publication it prepared with Free Speech on Israel, entitled '[What is – and what is not – antisemitic misconduct](#)', which was submitted as a contribution to the Labour Party's consultation on its Code of Conduct on Antisemitism in September 2018.
- 6) The overview to the publication states:

*"The understanding of antisemitism on which this analysis is based reaffirms the traditional meaning of the term. This is important in the light of attempts to extend its meaning to apply to criticisms often made of the state of Israel, or to non-violent campaigns such as BDS. A charge of antisemitism carries exceptional moral force because of the negative connotations rightly attaching to the term. It is illegitimate to make such claims to discredit or deter criticism, or to achieve sectional advantage. To do so is to devalue the term."*

*To be clear: conduct is antisemitic only if it manifests 'prejudice, hostility or hatred against Jews as Jews'.*

JVL also draws attention to the [Jerusalem Declaration on Antisemitism](#). This declaration is far clearer on defining what constitutes antisemitism than is the IHRA document.

"Antisemitism is discrimination, prejudice, hostility or violence against Jews as Jews (or Jewish institutions as Jewish)."

Its guidelines expand this in ways that are not slanted towards a particular view of Israel; the examples, being both ones that should prima facie be regarded as antisemitic and those that should not, are more helpful in aiding all parties to identify what activity should be the subject of complaint and sanction.

- 7) The Party has ignored these publications. Instead, the Party currently has three guidance documents in publication in respect of antisemitism:
  - e. [Appendix 9.2 of the Rule Book 2020](#);
  - f. the 'NEC Code of Conduct: Antisemitism' contained in the [Labour Party Complaint Handling Handbook](#); and
  - g. the IHRA definition of antisemitism, also set out in the Complaint Handling Handbook.
- 8) Notably, despite containing two sets of guidance on antisemitism, the Complaint Handling Handbook does not contain any explanation for how both forms of guidance should be applied, nor address the inconsistencies between them. The Party's approach in practice also seeks to treat the "examples" within the IHRA Definition as automatically constituting antisemitism, but even the Definition is clear that this is not the correct approach. Members are therefore left uncertain as to the actual definition being applied by the Labour Party.
- 9) JVL considers that until the Party understands and properly communicates what does and does not constitute antisemitism, it will not be able to effectively tackle the issue of antisemitism in the Party and will continue to engage in the multiple failures set out in these submissions.

### **Annexes to the Submissions**

- 10) The First Submission contained the following annexes:

Annex 1: Diana Neslen's story – the harrying of an older Jewish woman;

Annex 2: Stephen Mark's story – the singling out of a Jewish NCC member;

Annex 3: Naomi Wimborne-Idrissi's story – how misrepresenting comments led to suspension;

Annex 4: Proscription in Starmer's Labour Party;

Annex 5: The creation of an unrepresentative Advisory Board;

Annex 6: Complaints by JVL members that have been ignored;

Annex 7: The disproportionate targeting of left-wing Jewish Party members;

Annex 8: Our Jewish identities under attack;

Annex 9: The banning of JVL's education programme; and

Annex 10: The impact of the General Secretary's directives on left-wing Jews.

11) The Second Submission contained updates on annexes 4, 6 and 7 as well as a new Annex 10.

12) JVL now encloses, with the Third Submission, the following annexes:

Annex 11: Update on 27 November 2021 re disproportionate complaints against and investigations of left-wing Jewish members;

Annex 12: Letter from Bindmans to the Party dated 22 October 2021 in respect of Diana Neslen;

Annex 13: Confidentiality and inquisitorial processes of investigation;

Annex 14: Lack of progress on complaints by Jewish Labour Party members (this is an update to Annex 6 of the First Submission);

Annex 15: Appeal of Mike Howard dated 2 March 2021;

Annex 16: Proscriptions in Starmer's Labour Party;

Annex 17: Papers by Robert Cohen and Leon Rosselson relating to their work being cited in a charge of antisemitism.

### **Unfair targeting of Jews**

13) The Party continues to unfairly target Jews who have anti-Zionist and anti-nationalist beliefs and who have objections to how the State of Israel is treating Palestinian people (referred to hereafter as "**anti-Zionist Jews**" for ease of reference). There is also an overlap with the targeting of Jews who have been uncomfortable with the way the Party has interpreted

antisemitism and how it has conducted its investigations. JVL has identified four ways in which the Party does this:

- a. by carrying out a disproportionate number of disciplinary actions against anti-Zionist Jewish members in comparison to other Jewish members, in respect of alleged antisemitism;
  - b. by failing to recognise anti-Zionism as a protected philosophical belief under the Equality Act 2010;
  - c. by failing to represent anti-Zionist Jews in the Advisory board process (combined with a wider lack of representation); and
  - d. by bringing charges of '*Undermining the Party's ability to campaign against racism/ against the many Jews who have questioned the Party's policy and methods*'. See Paragraphs 33 and 34.
- 14) Such potential discrimination, arising *after* the EHRC investigation and Report, is indicative of the Party's increased hostility towards certain Jewish Party members, which is directly contrary to the intended outcome of the Report and the Action Plan.

### **Disproportionate disciplinary action against anti-Zionist Jews**

- 15) JVL refers the EHRC to Annex 11, which contains statistics on the number of investigations by the Party brought against Jewish members and in particular, anti-Zionist Jewish members. Annex 11 sets out that, as a population share, over five times more Jewish than non-Jewish Party members have been investigated in relation to allegations of antisemitism. As far as JVL is aware, of the 41 Jewish members who have been investigated for antisemitism, 38 of those are members of JVL the vast majority of whom would consider themselves anti-Zionist Jews and all of whom see a strong distinction between anti-Zionism and antisemitism. As set out in Annex 11, JVL is concerned that this constitutes a systematic targeting of anti-Zionist Jews and in particular JVL members.
- 16) Please see Annex 17, which relates to Jewish writers finding out by chance that their work is cited as evidence of antisemitism. No attempt has been made by the Party to discuss the work with the respective authors; instead the Party proceeds on a misrepresentation that its interpretation is based on firm, legal evidence.
- 17) The Party's disproportionate action against anti-Zionist Jews is exemplified in the case of Ms Diana Neslen. Ms Neslen is an over-80 year old Jewish woman who has herself experienced physical and verbal antisemitism and who has lived through and opposed apartheid in South Africa, yet who has been accused by the Party of antisemitism three times in less than three years. JVL refers the EHRC to Annex 1 to the First Submission, which sets out the background to her case.
- 18) Since the date of those submissions, Ms Neslen has been forced to instruct Bindmans LLP to defend herself against unfounded charges brought against her by the Party, which she

considers amount to harassment and discrimination contrary to the Equality Act 2010. Bindmans' correspondence is enclosed with these submissions at Annex 12. The Party has failed even to acknowledge such concerns, raised by a vulnerable Jewish woman, let alone respond to them. JVL instructed Bindmans to alert the EHRC about these concerns on 10 November 2021.

### **Failure to recognise anti-Zionism as a protected philosophical belief**

- 19) Ms Neslen's anti-Zionist beliefs are shared by many Jewish members of the Party, who have likewise faced disciplinary action for sharing those beliefs. However, such philosophical beliefs fall squarely within the definition of protected characteristics in the Equality Act 2010 (the "**EA 2010**").
- 20) In *Grainger plc v Nicholson* [2010] ICR 360, Burton J provided guidance on the meaning and ambit of "philosophical belief" for the purposes of the EA 2010. The effect of that guidance is that a belief can qualify for protection if it (i) is genuinely held, (ii) is not simply an opinion or viewpoint based on the present state of information available, (iii) concerns a weighty and substantial aspect of human life and behaviour, (iv) attains a certain level of cogency, seriousness, cohesion and importance, and (v) is worthy of respect in a democratic society, is not incompatible with human dignity and is not in conflict with the fundamental rights of others.
- 21) In *Forstater v CGD Europe* [2021] IRLR 706, Choudhury P held that Article 17 of the European Convention on Human Rights (the "ECHR") provides the appropriate standard against which the fifth limb of Grainger is to be assessed. Accordingly, "*only if the belief involves a very grave violation of the rights of others, tantamount to the destruction of those rights, would it be one that was not worthy of respect in a democratic society*" (at §62).
- 22) Many Jews targeted by the Party believe that political Zionism, the ideology that developed in the late 19th century and which propagated the creation, and continues to propagate the maintenance and expansion, of the State of Israel, as implemented in that State to privilege Jewish citizens over other citizens within the historic British Mandate of Palestine (which was and remains a multi-ethnic territory that is home to millions of non-Jews), is a racist endeavour. Such views are an integral part of a wider belief in the moral imperative of opposing racism in all its forms. Such a belief qualifies for protection under s.10 of the EA 2010.
- 23) Taking each part of the Grainger test above in turn:
  - h. Their belief is genuinely held.
  - i. It is not an opinion or viewpoint based on the present state of information, but rather a belief concerning the fundamental nature of political Zionism (as defined above) as an ideology.
  - j. It concerns a weighty and substantial aspect of human life and behaviour. Zionism is the founding ideology of, and continues to shape and influence the conduct of, the State of

Israel and its relationship with Palestine and Palestinians. It is significant and influential for the millions of people who live under Israel's jurisdiction or control, as well as for (i) the millions of Palestinian refugees whose ability to return to their homes in what is now the State of Israel depends upon laws propagated by that State; and (ii) the Jewish diaspora on whose behalf the State of Israel claims to speak. The belief that political Zionism is inherently racist is often based on a view of the constitutional structure of the State of Israel (as well as the manner of its occupation of the West Bank and Gaza) as well as any personal experience of being a Jew.

- k. It is clearly cogent, cohesive, serious and of importance to many Jews.
- 24) A large number of states, international organisations, jurists, politicians and human rights organisations share this view. For example, the leading Israeli human rights organisation B'Tselem concluded that Israel oversees a regime of racial supremacy from the Jordan River to the Mediterranean Sea, comprising "*laws, practices and state violence designed to cement the supremacy of one group over another*". Similarly, a recent report by Human Rights Watch concluded that the Israeli authorities "*have dispossessed, confined, forcibly separated, and subjugated Palestinians by virtue of their identity to varying degrees of intensity*", such conduct amounting to the crimes against humanity of apartheid and persecution.
- 25) In Annex 12, Bindmans raised a formal complaint against the Party for discrimination and / or harassment of Ms Neslen. This complaint could be levelled at the Party in respect of the majority of other Party members who have been subject to disciplinary action for their philosophical beliefs on Zionism.
- 26) JVL calls on the EHRC to confirm to the Party that anti-Zionism as a protected characteristic and to investigate the Party for its continuing discrimination in respect of this characteristic.
- 27) The Party's disproportionate targeting of anti-Zionist Jews is brought into stark relief when compared with its failure to follow up on complaints made by mainly left-wing Jewish members. Please see Annex 14 for a list of the complaints that have not yet received any response. This is a matter that has been chased on numerous occasions, see for example the email sent by Bindmans to the EHRC on 26 October 2021, confirming that no response had been received from either the EHRC or the Party to JVL's emails of 8 September 2021, requesting that the EHRC liaise with the Party to ensure it would investigate the complaints set out in Annex 6 of the First Submission.

### **Lack of representation on the Advisory Board**

- 28) JVL refers the EHRC to Annex 5 of the First Submission, which related to the potential discrimination experienced by Jews who were not represented on the Party's Advisory Board.
- 29) JVL had previously written publicly about the matter in February 2021, in an article entitled '[Labour's "Action Plan for Driving Out Antisemitism" will do no such thing](#)'. In that article,

JVL emphasised the risks and limitations of a narrow, unrepresentative, consultation among 'Jewish stakeholders' including the unhelpful precedent for other communities of interest and the narrow framing of what should constitute education through partisan 'training' from one source, the JLM (which has close links to Israel). JVL refers back to Annex 9 in this regard.

- 30) JVL had also instructed Bindmans LLP to write a letter to the Labour Party to raise concerns that appointments to the Advisory Board did not include non-Jewish Palestinians in light of the Party's interpretation of antisemitism and its reliance on the heavily contested IHRA definition of antisemitism.<sup>1</sup> The arguments in that letter are set out at Annex 5 of the First Submission.

As set out in Annex 5 to the First Submission, JVL remains concerned that the Party has adopted an unfair and opaque process for appointing the Advisory Board, which has resulted in the exclusion of anti-Zionist Jews and those concerned about the Labour Party's actions. They are also concerned that a similar process will be followed in respect of the "independent boards" to be involved in the disciplinary process in light of the Action Plan. The Party's amended rules give complete discretion to the General Secretary in the appointment of those boards and there is a real risk they will end up as unrepresentative as the Advisory Board if there is no open and transparent process for their appointment.

### **Unfair procedures**

- 31) JVL also wishes to draw the EHRC's attention to the unfair procedures the Party is engaging in when instituting disciplinary proceedings. These include but are not limited to:
- a. bringing deliberately vague charges against individual members on the basis of scant evidence and which preclude the individual's ability to adequately defend themselves;
  - b. failing to explain the connection between the charges brought and the "items" of evidence relied on;
  - c. refusing to grant adequate extensions of time for written evidence;
  - d. lengthy delays in determining investigations and appeals;
  - e. failing to provide clear or fair guidance on confidentiality of information shared by those subject to disciplinary proceedings;
  - f. refusing to provide information regarding the identity of the complainant; and
  - g. unfairly subjecting Jews to disciplinary proceedings as a result of proscriptions of organisations of which they are "supportive".

---

<sup>1</sup> Please see the [advice note prepared on 8 March 2017](#) by Hugh Tomlinson QC, which discusses why the IHRA definition of antisemitism is highly contested.



- 32) As a preliminary point, JVL has identified various failures by the Party to implement the recommendations made in the Chakrabarti Report. These failures have proved pivotal to the Party's ongoing unfair processes in respect of bringing disciplinary proceedings against individuals accused of antisemitism.

### **Vague charges**

- 33) In the majority of investigations into alleged antisemitism, the Party asserts that the member is guilty of conduct that "*undermines the Party's ability to campaign against antisemitism*". This is a vague accusation that does not provide the member with sufficient information to understand, or defend themselves against, the charge. It also gives the Party an effective carte-blanche to investigate members in relation to complaints that have no basis and to stifle any questioning of the Party by its members.
- 34) For example, the Party has brought disciplinary proceedings against Ms Manson for simply questioning the public perception of the scale of complaints of antisemitism against Party members: see the [Newsnight interview on 17 November 2020](#) which formed the basis of the investigation. The comment identified by the Party in that interview falls squarely within the permitted speech specifically identified by the EHRC in its Report, which was accepted in full by the Party leadership.
- 35) In particular, the EHRC said "*Article 10 will protect Labour Party members who, for example, make legitimate criticisms of the Israeli government, or express their opinions on internal Party matters, such as the scale of antisemitism within the Party, based on their own experience and within the law.*"
- 36) Even though the Human Rights Act 2010 may not apply directly to the Party, the Party has voluntarily (and rightly) accepted that the principles underpinning Article 10 should apply to it, including in respect of issues of alleged antisemitism: see the NEC Code of Conduct on Antisemitism in the Complaints Handling Handbook. Rule 2.I.9 of the Rule Book further provides:
- "The NEC and NCC shall not have regard to the mere holding or expression of beliefs and opinions except in any instance inconsistent with the Party's aims and values, agreed codes of conduct, or involving prejudice towards any protected characteristic."*
- 37) In consideration of the above, the Party's use of vague language to institute disciplinary proceedings is unfair and potentially in breach of recognised principles of free speech.

**Lack of connection between the charges brought and 'evidence' relied upon**

- 38) In the majority of cases, the Party does not set out in clear terms – or at all – the connection between the complaint of antisemitism and the items of 'evidence' relied on to support the complaint. This leaves the accused open to self-incrimination. JVL draws attention to Annex 13, a letter to the Governance Legal Unit ("**GLU**") expressing his serious concern at the Party's failure to clearly set out the allegations against him (withheld for reasons of confidentiality from the public version).

**Refusals of extensions of time**

- 39) JVL has noted an increasing trend in the Party refusing to grant those subject to investigation a reasonable extension of time (JVL considers this to be around four weeks) and instead proposing an extension of, for example, two weeks. This refusal often arises in the context of the Party itself taking action on complaints regarding incidents that have taken place many years previously and confirming that the reason for the delay is due to the Party working through a backlog of complaints. In circumstances where the Party has delayed acting on a complaint for a number of years, it is unacceptable for the Party to refuse to grant an individual the extension of time requested for their written evidence, particularly as there is no prejudice to the Party in doing so. Many accused face weeks of extreme shock and distress after the initial letter. Such refusal amounts to an unfair process.

**Lengthy delays in determining investigations and appeals**

- 40) In addition to delays in acting on complaints, the Party has also delayed significantly in processing investigations. In many cases, the Party has left the members subject to investigation in limbo for months on end, failing to respond even to requests for updates on their investigations.
- 41) JVL draws attention in particular to the case of the late Mike Howard, whose appeal against his unjust punitive suspension is set out in Annex 15. Prior to investigation, Mr Howard had an unblemished record as a Jewish Labour, trade union and anti-racist activist. He was therefore incredibly angered and distressed to find himself subject to investigation. His appeal was filed in March 2021, with further submissions made on 13 April 2021. Following that date, Mr Howard received neither any update on progress nor any substantive response from the Party. Tragically, Mr Howard died in November 2021, without even an acknowledgement of his appeal by the Party.
- 42) The Party's delay in responding to individuals is totally unacceptable and merits investigation by the EHRC.

## Confidentiality

- 43) Clause 9(b) of the Party's 'Code of Conduct: Confidentiality and Privacy' states that members must keep information relating to disciplinary cases private except where it is necessary for a member subject to the proceedings to make disclosure for the purpose of obtaining, *inter alia*, "social support" or "support from close family members". These terms are not defined and it is therefore unclear in what circumstances a member can share information for support.
- 44) There is also a distinct lack of parity in the Party's confidentiality obligations in respect of disciplinary action, compared with that of the member as "*the NEC or any national officer acting under the NEC's or the General Secretary's delegated powers may disclose the fact of a disciplinary investigation to third parties if it is necessary to do so in the Labour Party's interests*"<sup>2</sup>. No such right is given to a respondent when disclosure may be necessary or appropriate in their interests. Members can therefore not rebut misleading reports made about their investigations, which is sadly common. JVL is unaware of any steps the Party has taken to investigate or prevent such leaks, which often occur within hours of an investigation being launched or a decision being made.
- 45) The lack of clarity in the guidance in respect of who the member can disclose information to, combined with the lack of parity described above, places the Party at an unfair advantage in an already unfair process. JVL is concerned that the confidentiality provisions are intended to effectively avoid public scrutiny of the Party's disciplinary processes, despite the substantial flaws identified in the EHRC Report.
- 46) See Annex 13, which contains a letter sent by Jacob Eccelstone to David Evans on 19 November 2021 on the issue of "confidentiality" and (also noted above) a response to a GLU Notice of Investigation dated 5 November 2021 (withheld) as well as an excerpt from a member's response to a Notice of Investigation, outlining the member's distress over the lack of clarity of the confidentiality clauses contained therein.
- 47) It is widely recognised that, if a member requests the identity of the complainant in their investigation, the Party should provide such information. Indeed this was confirmed in the Chakrabarti Report, which recommended that it was important to identify the complainant because:

*"it would also create an important distinction between such a complainant and a hostile journalist or political rival conducting a trawling exercise or fishing expedition in relation to a particular person or group of people within the Labour Party. I am not going so far to say that a politically motivated complaint should always be disregarded, just that motivation may have relevance, as will context."*

- 48) Despite the above and in breach of the principle of natural justice, JVL is aware of many instances in which the Party has refused to provide details of the identity of the complainant.

---

<sup>2</sup> Clause 9(c) of the 'Code of Conduct: Confidentiality and Privacy'

Such refusal would appear to be the default position, as opposed to the exception. Indeed JVL is not aware of any cases where the complainant is identified.

### **Proscriptions**

- 49) In Annex 4 of the First Submission, JVL had provided the EHRC with details of the Party's proscription of four organisations in July 2021, meaning that their members and supporters would be auto-excluded from the Party. Whilst not formally endorsed, this action is being applied on a retrospective basis<sup>3</sup>, in some cases several years after the alleged offence.
- 50) As set out in Annex 16 to the Third Submission, "support" for these organisations could include participation in events they have organised. As a result, many Jews could fall within this definition. Those Jews would effectively be punished for actions that could not have been foreseen to be subject to sanction at the time they were taken. This constitutes a form of a retrospective punishment that is fundamentally unfair and is exemplified in the case of Leah Levane (details set out in Annex 16) and other members who wish to remain anonymous.

### **Late Legal Addition**

---

- 51) There have been two significant legal decisions since JVL's second submission. Both relate to Labour Against the Witch Hunt (LAW) and so are relevant to the section on proscriptions (Annex 16). They are relevant to the Labour Party's misunderstanding of antisemitism. The first is reinstatement of Stan Keable to his employment, following his unjust dismissal on charges of antisemitism and the second, well known to the EHRC, is the granting of permission to Ken Livingstone to go to judicial review.

### **Conclusion**

---

- 52) JVL is grateful to the EHRC for requesting further submissions and hopes that the above will assist the EHRC in its ongoing monitoring of the Party.
- 53) JVL would welcome the opportunity to discuss any of the above points in more detail with the EHRC or to answer any questions arising out of these submissions.

---

<sup>3</sup> See: <https://skwawkbox.org/2021/11/21/jama-pidcock-table-nec-motion-to-ban-retrospective-punishment-and-rescind-expulsions/>

Update 1<sup>st</sup> December

### **Disproportionate complaints against and investigations of left-wing Jewish members**

---

According to the Labour Party, as of June 2021, there had been 1,466 actioned complaints against Labour Party members in relation to allegations of antisemitism (1-3).

From other published data (4) we estimate there have been on average 500,000 Labour Party members between 2015 and 2020, the period covering most complaints.

**On this analysis, actioned antisemitism complaints have therefore involved a maximum of 0.29% of Labour Party members.** (In fact, the proportion is certainly lower, since some members have been subject to more than one actioned complaint.)

In the months since June 2021 our data along with anecdotal evidence suggests a significant increase in investigations for alleged antisemitism alongside auto exclusions arising from the proscription of organisations such as LAW which has a significant number of Jewish members supposedly it seems for undermining the Party's ability to campaign against 'antisemitism' by challenging the assumptions made by the Party about antisemitism.

#### **Jewish members**

By the end of 2020, there were reportedly at least 35 antisemitism-related investigations of Jewish Labour members (5), By November 2021 this had reportedly risen to 49 investigations involving 41 individuals and five auto- exclusions of Jews .It is not known with any certainty how many Labour members are Jewish. Applying conservative assumptions, we estimate an approximate Jewish membership of 2,500.

Based on published complaints data by the Labour Party up to June 2021 it follows from this estimate that 1.6% (41/2500) of Jewish members have faced actioned complaints for antisemitism.

And as a population share, it follows that **over five times** \*(1.6/0.29%) **more Jewish than non-Jewish Labour members have actually faced actioned complaints of antisemitism.**

#### **Jewish Voice for Labour members**

Of the 41 Jewish members whom we know have been investigated or auto-excluded for antisemitism, 38 are JVL members. The Jewish membership of Jewish Voice for Labour (JVL) has ranged between 300 and 400 since JVL was formed in 2017.

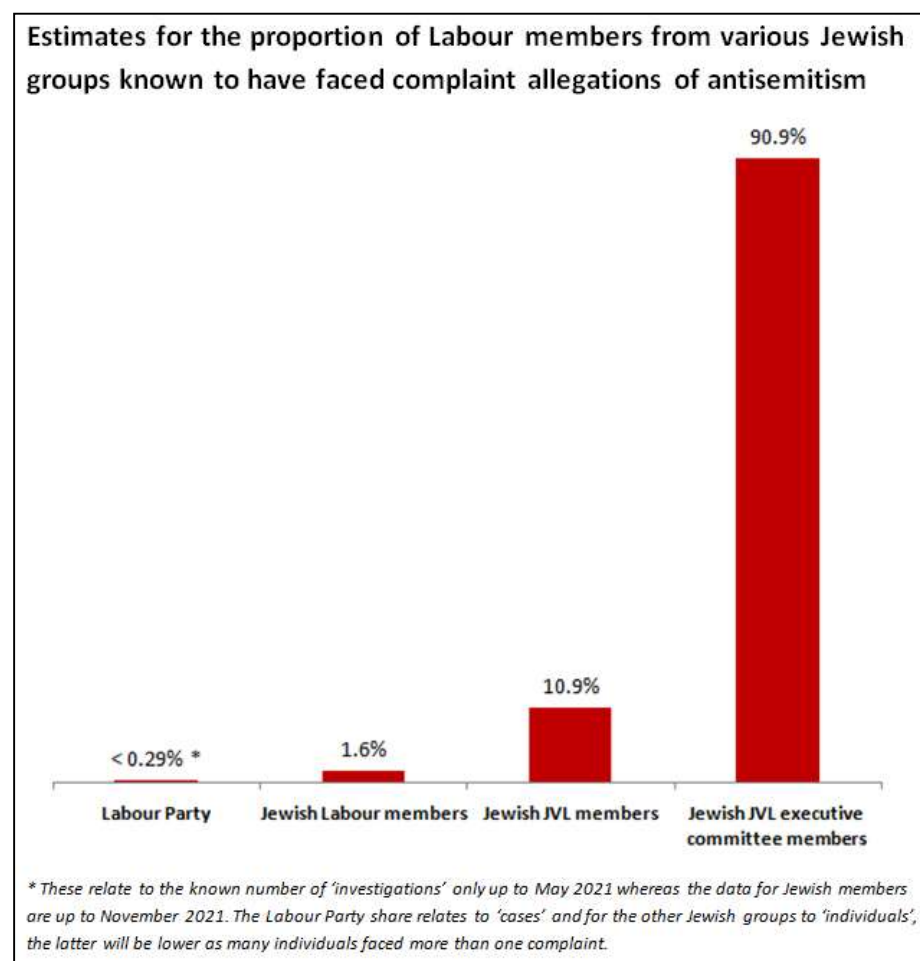
As far as we are aware, almost 11% (38/350) of JVL's Jewish members have therefore been investigated for antisemitism, with quite a few of these members having been targeted with multiple such complaints.

This means that **Jewish JVL members have been subject to actioned antisemitism complaints at a rate almost 38 \* (10.9/0.29%) times greater than non-Jewish Labour members if we look at the full period under review.**

### **JVL Executive Committee Members**

Over this period JVL has changed its structure from officers and committee to a new 'Executive Committee'. Of the current eleven JVL's officers, ten have been investigated or been auto excluded in relation to charges of antisemitism. This means that 91% of current JVL leaders have been targeted; looking at the period under review as a whole this is at a rate of more than 314\* (90.9/0.29%) times higher than non Jewish Labour Party members

The overall estimates are illustrated in the table below:



## **Conclusion**

There is strong evidence that Jewish members have been disproportionately singled out as subjects for complaints about antisemitism. This disproportionality seems to be driven almost completely by targeted attacks on members of Jewish Voice for Labour, in particular their executive committee members.

The numbers are far too high to be the result of chance or attributable to circumstances specific to individual cases. On the contrary, they suggest that Jewish Party members are disproportionately exposed to being investigated for antisemitism, that is to say, for racism against their own religions, traditions, communities, histories and loved ones.

The Party must have noticed this systematic targeting of left-wing Jewish members. But while there have been frequent leaks about those Jews accused of antisemitism, the names of their accusers have been carefully protected by the Party.

To add to the outrage felt by Jews investigated for antisemitism, their cases are reviewed almost exclusively by non-Jewish staff, who do not carry the inheritance of antisemitism as Jews do.

It is interesting to note that the prevalence of antisemitism as measured by the Jewish Policy Research (JPR) group is considered to be around 5% of the general population and is slightly lower on the left (6). Importantly, though other religious groups were assessed the Jewish researchers did not deem it necessary to investigate antisemitism prevalence in Jewish responders. We can speculate that the researchers regarded antisemitism amongst Jews as of such vanishingly rare occurrence as to be unnecessary to enumerate and too rare to capture in any reasonable sized survey. Our evidence suggests that allegations of antisemitism directed at Jewish people, have been motivated for political ends very remote from fighting genuine antisemitism; see the annexes relating to Stephen Marks, Diana Neslen and Naomi Wimborne-Idrissi in the submission on 5<sup>th</sup> August 2021, the update on Stephen Marks in the submission of 28 August and the references to the cases of Michael Howard, Richard Kuper, Leah Levane, Jenny Manson and Diana Neslen in this latest submission.

Two JVL members, Riva Joffe under investigation, Mike Howard having received a punitive suspension for antisemitism, have recently died, tragically with these offensive and unfounded charges against them unresolved. In the case of Mike Howard, his appeal against his suspension remains unresolved since 12 April 2021.

We find this continuing campaign of stigmatising innocent left-wing Jews, no doubt for factional or political reasons, totally unacceptable.

## References

1. <https://labourlist.org/2019/02/jennie-formby-provides-numbers-on-labour-antisemitism-cases/>
2. <https://labourlist.org/2020/01/new-antisemitism-data-shows-labour-is-taking-decisive-action-says-party/>
3. <https://labour.org.uk/wp-content/uploads/2021/06/June-2021-Disputes-Report.pdf>
4. <https://commonslibrary.parliament.uk/research-briefings/sn05125/>
5. [Labour slammed by Jewish members for pursuing them on 'antisemitism' charges](#)  
Morning Star
6. [https://www.jpr.org.uk/documents/JPR.2017.Antisemitism\\_in\\_contemporary\\_Great\\_Britain.pdf](https://www.jpr.org.uk/documents/JPR.2017.Antisemitism_in_contemporary_Great_Britain.pdf)





Date: 22 October 2021

**The Labour Party  
Head Office**

By email only: [investigations@labour.org.uk](mailto:investigations@labour.org.uk)

Dear Sir / Madam

**Notice of Investigation - Diana Neslen**

**Complaint of discrimination and harassment by the Labour Party**

**1. Introduction**

- 1.1 We are instructed by Ms Diana Neslen (“our client”).
- 1.2 We write further to your letter of 18 August 2021 (the “**Second NOI**”), our client’s response email of 26 August 2021. No response has been received from the Party to that email despite the serious issues it raised.
- 1.3 We enclose with this letter our client’s substantive response to parts of the second NOI. The purpose of this letter is to:
  - (a) explain why the majority of the Second NOI is invalid and directly contrary to the Party’s own Complaint Handling Handbook (the “**Handbook**”) and Complaints Policy (the “**Policy**”) (latest versions both dated 22 July 2021);
  - (b) raise a formal complaint against the Party for discrimination and/or harassment based on a protected characteristic contrary to the Equality Act 2010; and
  - (c) seek appropriate confirmations regarding the involvement of Mr Barros-Curtis in this and previous investigations.

SENIOR CONSULTANTS  
Sir Geoffrey Bindman QC\*  
Stephen Grosz QC\*  
Saimo Chahal QC\*  
Lynn Knowles

PARTNERS  
Tayab Ali  
Tamsin Allen  
Liz Barratt  
Jules Carey  
Jon Crocker  
Yagmur Ekici  
Kate Goid  
John Halford  
Laura Hobey-Hamsher  
Charlotte Haworth-Hird  
Alison Leivesley  
Siobhan Kelly  
Alla Murphy  
Olivia Piercy  
Jamie Potter  
Paul Ridge  
Amrit Rana  
Amy Rowe  
Alison Stanley  
Anna Thwaites  
Katie Wheatley

ASSOCIATES  
Melissa Arnold  
Salima Budhani  
Emma Cohen  
Maud Davis  
Ashley-Jayne Fleming  
Roberta Haslam  
Catherine Jackson  
Jude Lanchin  
Alison Mackintosh  
Robert Maddox  
Karen May  
Jessica Skinnis  
Sheetul Sowdagur

SOLICITORS  
Karan Ahluwalia  
Sumaiyah Anwar  
Christina Ashibogu  
Unkha Banda  
Clara Barry Born  
Joanna Bennett  
Jessie Brennan  
Hester Cavaciuti  
Elizabeth Cleaver  
Samuel Cronin  
Alice Davis  
Rachael Davis  
Emily-Jade Defriend  
Abigail Evans  
Christian Hansen  
Rachel Harger  
Adele Harrison  
Ella Jefferson  
Shirin Marker  
Hannah Marshall  
Marianna Michaelides  
Theodora Middleton  
Carla Mirallas  
Joseph Morgan  
Oliver Oldman  
Patrick Ormerod  
Megan Owen  
Shelly Pastakia  
Jen Parker  
Caroline Robinson  
Megan Rothman  
Basmah Sahib  
Daniel Shaw  
Alex Temple  
Emma Varley  
William Whitaker  
Rosaleen Wyllie  
Louisa Zangina

CONSULTANTS  
Tony Taylor

\*Honorary

*Contracted with  
the Legal Aid  
Agency*

**Fraud Panel**

**Bindmans LLP**

236 Gray’s Inn Road London WC1X 8HB  
DX 37904 King’s Cross Telephone 020 7833 4433 Fax 020 7837 9792  
[www.bindmans.com](http://www.bindmans.com) [info@bindmans.com](mailto:info@bindmans.com)

Bindmans LLP is a limited liability partnership registered in England and Wales under number OC335189. Its registered office is as set out above. The term partner means either a member of the LLP or a salaried partner.



Authorised and regulated  
by the Solicitors  
Regulation Authority  
with SRA authorisation  
number 484856

- 1.4 Our client expects a response to this letter within 14 days, failing which she will consider any further legal options available to her.
2. **The Party's breach of the Handbook and the Policy**
  - 2.1 The Handbook is explicit under the heading "Who and what can you complain about" on page 3 that the Party will not consider complaints about the *"conduct or behaviour of current members from a time previous to when they joined the Labour Party as a member."*
  - 2.2 The Policy is similarly clear at Appendix 1 that the Party will not investigate *"complaints that have already exhausted our process - if the same complaint has received a final written decision"*.
  - 2.3 The Second NOI includes eight "items of evidence" (not nine as suggested in the charges), namely twitter posts made by our client (not emails as suggested in the questions). Five of those tweets predated Ms Neslen joining the Labour Party as a member in September/October 2015. They are therefore excluded from investigation by the Handbook. These are Items 2, 4, 5, 7 and 8.
  - 2.4 Moreover, four of the eight items have been subject to a previous investigation by the Party that has been subject to final written decision. More specifically, Ms Neslen has previously received a Notice of Investigation dated 13 May 2020 (the **"First NOI"**). Items 2, 3, 4 and 6 from the Second NOI also featured in the First NOI (as Items 5, 6, 2 and 4 respectively).
  - 2.5 The First NOI resulted in a "Formal NEC warning relating to your conduct" dated 19 February 2021 (the **"Formal Warning"**). Of the above items, only Item 4 from the Second NOI (Item 2 from the First NOI) was deemed a breach of the Labour Party Rule Book. It is clear the remaining tweets were deemed not to be in breach. In any event, none of the Items that are repeated from the First NOI can properly be subject to a further investigation in accordance with the Policy.
  - 2.6 That leaves a single item of evidence in respect of the Second NOI: Item 1, specifically a tweet from 9 February 2017 that said *"the existence of the state of Israel is a racist endeavour and I am an antiracist Jew"* (the **"Remaining Item"**). Ms Neslen responds to the questions in respect of that single item of evidence in her attached response to the NOI, however, we would note that her primary position is that an investigation in respect of this single tweet is

totally unjustified and disproportionate, taking into account the following:

- (a) As well as the First NOI, Ms Neslen received a Reminder of Conduct (without a preceding investigation) dated 4 September 2018 (the “RoC”). The Party has therefore had two previous opportunities to investigate the Remaining Item and has not done so.
- (b) There can be no genuine basis for suggesting that, if the Remaining Item had been included in either the RoC or the First NOI and had been found to be in breach of the Rule Book (which it is not), that this would have resulted in some different sanction to that which was applied. To apply a further sanction now would therefore be disproportionate.
- (c) The tweet reflects a commonly held opinion and belief, as evidenced by recent reports from B’Tselem and Human Rights Watch as referred to in Ms Neslen’s response.
- (d) We would also suggest that the Remaining Item is similar, if not more restrained, in content and tone to Items 5 and 6 of the First NOI, both of which were found by the NEC Panel not to breach the Labour Party Rule Book.

2.7 Even leaving aside the significant concerns raised below regarding discrimination and harassment, we would accordingly invite you to immediately dismiss this complaint and apologise to Ms Neslen for the issuing of the Second NOI in clear contravention of the Handbook and the Policy.

### **3. Discrimination and harassment**

3.1 As noted above, this is the third time in less than three years that our client has been accused of anti-Semitism by the Labour Party.

3.2 As the Party has been told multiple times, our client is an over-80-year-old Jewish woman who regularly attends her local Orthodox synagogue and keeps a kosher home. She, and her family, have experienced anti-Semitic slurs and physical attacks throughout their entire lives. She is a victim of anti-Semitism. She also lived through, and opposed, apartheid in South Africa.

3.3 Accusations of anti-Semitism against her are therefore particularly painful and upsetting. Despite this, the Party continues to make them, even in contravention of its own Handbook and Policy,

without any seeming regard for her personal position or respect for her strongly-held philosophical beliefs. In contrast, the Party would appear to have done nothing to investigate Ms Neslen's complaints of the anti-Semitism she has suffered at the hands of other Party members.

- 3.4 Ms Neslen's position in this respect was set out in detail in a witness statement provided to the Party as part of legal proceedings brought by our client (and others) against it. We enclose that Witness Statement again for the Party's reference, although we would expect it to be held on the Party's file relating to Ms Neslen. That Witness Statement also explains at some length the basis of our client's antiracist, anti-Zionist and anti-nationalist beliefs, all of which have deep roots in Jewish experience and tradition, as well as her serious objections to the conduct of the State of Israel in respect of the Palestinian people.
- 3.5 Such philosophical beliefs clearly fall within the definition of protected characteristics in the Equality Act 2010 (the "EA 2010"). In *Grainger plc v Nicholson* [2010] ICR 360, Burton J provided guidance on the meaning and ambit of "philosophical belief" for the purposes of the EA 2010. The effect of that guidance is that a belief can qualify for protection if it (i) is genuinely held, (ii) is not simply an opinion or viewpoint based on the present state of information available, (iii) concerns a weighty and substantial aspect of human life and behaviour, (iv) attains a certain level of cogency, seriousness, cohesion and importance, and (v) is worthy of respect in a democratic society, is not incompatible with human dignity and is not in conflict with the fundamental rights of others.
- 3.6 In *Forstater v CGD Europe* [2021] IRLR 706, Choudhury P held that Article 17 of the European Convention on Human Rights (the "ECHR") provides the appropriate standard against which the fifth limb of *Grainger* is to be assessed. Accordingly, "*only if the belief involves a very grave violation of the rights of others, tantamount to the destruction of those rights, would it be one that was not worthy of respect in a democratic society*" (at §62).
- 3.7 Ms Neslen's belief (amongst others) is that political Zionism, the ideology that developed in the late 19<sup>th</sup> century and which propagated the creation, and continues to propagate the maintenance and expansion, of the State of Israel, as implemented in that State to privilege Jewish citizens over other citizens within the historic British Mandate of Palestine (which was and remains a multi-ethnic territory

that is home to millions of non-Jews), is a racist endeavour. That is an integral part of her wider belief in the moral imperative of opposing racism in all its forms. Such a belief qualifies for protection under s.10 of the EA 2010.

3.8 Taking each part of the *Grainger* test above in turn:

- (a) The belief is genuinely held.
- (b) It is not an opinion or viewpoint based on the present state of information, but rather a belief concerning the fundamental nature of political Zionism (as defined above) as an ideology.
- (c) The opinion concerns a weighty and substantial aspect of human life and behaviour. Zionism is the founding ideology of, and continues to shape and influence the conduct of, the State of Israel and its relationship with Palestine and Palestinians. It is significant and influential for the millions of people who live under Israel's jurisdiction or control, as well as for (i) the millions of Palestinian refugees whose ability to return to their homes in what is now the State of Israel depends upon laws propagated by that State; and (ii) the Jewish diaspora on whose behalf the State of Israel claims to speak. Ms Neslen's belief that political Zionism is inherently racist is based on her view of the constitutional structure of the State of Israel (as well as the manner of its occupation of the West Bank and Gaza), and her personal experience both as a Jew and a resident of apartheid South Africa.
- (d) Ms Neslen's belief is clearly cogent, cohesive, serious and of importance to Ms Neslen and many others.
- (e) In light of the very high threshold set by Article 17 ECHR, as explained in *Forstater* it is unnecessary for us to set out the large numbers of states, international organisations, jurists, politicians and human rights organisations who share Ms Neslen's view. It suffices to say, by way of example, that the leading Israeli human rights organisation B'Tselem concluded that Israel oversees a regime of racial supremacy from the Jordan River to the Mediterranean Sea, comprising "*laws, practices and state violence designed to cement the supremacy of one group over another*". Similarly, a recent report by Human Rights Watch concluded that the Israeli authorities "*have dispossessed, confined, forcibly separated, and subjugated Palestinians by virtue of their identity to*

*varying degrees of intensity*", such conduct amounting to the crimes against humanity of apartheid and persecution.

- 3.9 In accordance with section 101(2) of the EA 2010, the Labour Party is prohibited from discriminating against its members by subjecting that member to any detriment by reason of protected characteristic. The issuing of NOIs and conduct of investigations are clearly a detriment to any member given the time they take to respond to, and the stress they cause, but this detriment is particularly acute for our client for the reasons set out above. Section 101(4) prohibits harassment of members.
- 3.10 There are two types of discrimination: direct and indirect. Direct discrimination occurs where an association (A) treats a member (B) less favourably than A treats or would treat others because of a protected characteristic. In this case Ms Neslen believes that she has been subject to direct discrimination by the Party by reason of her philosophical beliefs, as compared to, for example, the person about whom she has made complaints, and who does not share her beliefs.
- 3.11 Indirect discrimination occurs, in short, when a person applies a policy, criterion or practice ("**PCP**") equally, but where the PCP results in a particular disadvantage for persons sharing a protected characteristic. The Labour Party Complaint Handling Handbook the NEC Codes of Conduct, which include a "Code of Conduct: Antisemitism". That Code of Conduct, when read with the IHRA Working Definition and as it has been applied in practice, is more likely to lead to investigations against those who share Ms Neslen's philosophical beliefs than those who do not.
- 3.12 This is because the application of the Code of Conduct when read together with the IHRA Working Definition regularly leads to conflation between (i) anti-Semitism and (ii) anti-Zionism or opposition to the State of Israel. This conflation is not only indirectly discriminatory, but also is itself anti-Semitic as it seeks to treat all Jews as a single homogeneous community that must support Zionism and the State of Israel. The conflation also leads, in our client's case and others, to an effective accusation that the investigated member is a "self-hating Jew", a common stereotype.
- 3.13 Harassment is when an association (A) engages in unwanted conduct towards a member (B) related to a relevant protected characteristic and the conduct has the purpose or effect of (i) violating B's dignity or (ii) creating an intimidating, hostile, degrading, humiliating or



[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**5. Conclusion**

5.1 We request a response to this letter within 14 days, that is by **5 November 2021**.

Yours faithfully

[REDACTED]

**Bindmans LLP**



## **Annex 13 – Confidentiality and inquisitorial processes of investigation**

### **This Annex contains**

1. A letter sent by Jacob Eccelstone to David Evans on 19 November 2021 on the issue of "confidentiality"
2. Withheld for reasons of confidentiality
3. A member expressing distress over the lack of clarity of the confidentiality clauses in a Notice of Investigation.

These all raise important questions about the Labour Party's attempt to impose a duty of confidentiality on its members under investigation. The members in question have refused to accept this and in so doing reject the inquisitory procedures employed:

- there seems to be a presumption of guilt (despite the formulaic statement in Notices of Investigation that there is not) in that no actual accusations are made; rather those accused are left to incriminate themselves;
- investigations are carried out in secret;
- the accused is denied knowledge of the identity of the accusers and/or of witnesses;
- the accused's identity is kept secret from the outside world (for "their own protection"

In its Code of Conduct with regard to Confidentiality it is stated that "Breaches of confidentiality may put the interests of the Labour Party, its members and supporters at risk and may damage the Labour Party's good reputation and standing with the electorate." On the contrary, we find that the threats to the Party's good reputation are likely to come from its inquisitorial disciplinary procedures and that disclosure might, as one of the letters below says, "bring the Party into disrepute by publicising the fact that it is acting disreputably".

## **1. The Labour Party's disciplinary procedures – Jacob Ecclestone writes on "confidentiality"**

Fri 19 Nov 2021

### **JVL Introduction**

Jacob Ecclestone was a founder member of the Campaign for Freedom of Information in Britain almost 40 years ago.

So he finds the injunction to remain silent about a "notice of investigation" he has received from the Labour Party unacceptable and has written a letter explaining this to the General Secretary, David Evans.

The "investigation" concerns an email he sent to the Party's regional office – "no more than a mild protest and an expression of my political opinion – the Labour Party being a collective organisation for people who hold political opinions and want to discuss them."

He wonders how an internal message can be publicly damaging; or how the Labour Party's disciplinary procedures seem to resemble those used by the Holy Office of the Inquisition in its quest to hunt down heretics and root out error...

---

### **Jacob Ecclestone writes**

18 November 2021

David Evans  
General Secretary  
The Labour Party  
Southside  
105 Victoria Street  
LondonSW1E

### **Sent by e-mail**

Dear Mr Evans,

I am writing in response to the various documents and letters I was sent by the Labour Party on 9 November 2021. The fact that none was signed is an indication, perhaps, of how little regard the party has for ordinary members. I prefer to communicate with a human being rather than a "unit".

It seems that I am "under investigation" for writing and sending a short message to the East Midlands General Office of the party on 28 June, 2019. I attach a copy of my email for your information, together with a copy of the allegations against me.

Reading through the many demands, warnings, requests and instructions, I am struck by the extraordinary similarity between the Labour Party's disciplinary procedures and those pioneered 600 years ago by the Holy Office of the Inquisition – the purpose in both cases being to hunt down heretics and root out error. Here are some examples:

- investigations to be carried out in secret
- the accused to be denied all knowledge of the identity of his or her accusers and the identity of witnesses
- the accused to be required to testify
- those charged to be presumed guilty (or else they would not have been charged)
- the identity of the accused to be kept secret

I am glad that instead of burning deviants and heretics the Labour Party now expresses concern for the accused's mental wellbeing. Mine is good, thank you.

However, having been a founder member of the Campaign for Freedom of Information in Britain almost 40 years ago, I cannot agree to remain a secret heretic. It goes against the grain, especially as I spent much of my working life with the National Union of Journalists attempting to dispel the clouds of confidentiality which – to this day – hang over our public life. The Labour Party should try harder to throw off this culture of secrecy instead of embracing it like a child's comfort-blanket.

There are several issues in the notice of "investigation" which I would like to raise with you – beginning with the word itself. I appreciate that an "investigation" sounds more open-minded than, say, "processing a complaint", but there isn't anything to investigate. The email which I sent to the regional office was no more than a mild protest and an expression of my political opinion – the Labour Party being a collective organisation for people who hold political opinions and want to discuss them.

One of the documents I received is headed "Draft Charge". Normally, a draft is not published until the text is put into its final form. Could you tell me, therefore, whether this was a simple oversight or does the word "draft" mean that the charge(s) may be revised in the light of this letter to you? If the latter, then the "Draft Charge" is what lawyers call a fishing expedition, isn't it?

It is alleged that the mere act of writing and sending a 214-word email to one of the regional offices was "grossly detrimental" to the Labour Party. I would be obliged if you could describe and quantify the harm caused by my email since I cannot understand how an internal message can be publicly damaging.

Another matter that puzzles me about this "investigation" is how it started. I am told that the party "received" a complaint about my email. If the complainant is not a member of the Labour Party bureaucracy, then it follows that my email must have been leaked because the party was the only recipient. If a member of the Labour Party staff leaked my message, then I can hardly be blamed for any damage or harm the party may have suffered.

On the other hand, if the party bureaucracy did not "receive" a complaint but decided to institute disciplinary proceedings itself because objection was taken to the views expressed in my email, then this whole business is based on deceit. Is the Labour Party acting as judge, jury and executioner in its own cause? Perhaps you should explain.

The real issue underlying this attempt to expel me from the party is, of course, antisemitism. Writing this letter in the wake of the latest disclosures about Islamophobia in Britain, given to a Parliamentary Select Committee by Azeem Rafiq, I am troubled more than ever that the Labour Party has a hierarchy of racism. It is not right for socialists to treat one form of racial prejudice and hostility as more important than another. The Muslim and the Jew are both human beings and deserve to be honoured in the same way.

Finally, a personal note. I was born in the spring of 1939 shortly before the second world war began. I was a few weeks old when my parents took into our home a six-year-old boy called Herbert Neuwalder. He came from Vienna on the Kindertransport. For the first eight years of my life he was my oldest brother. Happily, he was reunited with his family after the war. Herbert remained my brother for 80 years.

Yours sincerely,

Jacob Ecclestone

cc Simon Chapman (chair) and Leisa Devlin (secretary) South Norfolk CLP

---

### Text of the Draft Charge issued to Jacob Ecclestone by the Labour party on 9 November 2021

Draft Charge
<p>1. Mr Jacob Ecclestone (the Respondent) has engaged in conduct prejudicial and / or grossly detrimental to the Party in breach of Chapter 2, Clause 1.8 of the Labour Party Rule Book by engaging in conduct which:</p> <ul style="list-style-type: none"><li>a. may reasonably be seen to demonstrate hostility or prejudice based on race, religion, or <u>belief</u>;</li><li>b. may reasonably be seen to involve antisemitic actions, stereotypes and <u>sentiments</u>;</li><li>c. undermines the Party's ability to campaign against racism;</li><li>d. Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, <u>government</u> or other societal institutions:<ul style="list-style-type: none"><li>i. Item 1. On 28 June 2019, Mr Ecclestone sent an email to East Midlands General office regarding the suspension of Chris Williamson. In this email he stated the "<i>Leadership of the party has been far too apologetic in response to the mears of antisemitism</i>". The email also states "<i>An enquiry was carried out and the suspension was lifted. Now - shockingly - after a wave of hysterical abuse by the media and Margaret Hodge and Louise Ellman etc. Mr Williamson has been suspended again</i>".</li></ul></li></ul>

**Text of the email sent by Jacob Ecclestone to East Midlands regional Office of the Labour Party on 28 June 2019**

"I rejoined the Labour party two years ago when I believed that it had returned to its socialist roots. I am writing to say that I am appalled by the behaviour of the Labour Party in its treatment of Chris Williamson.

I, and many other members of the party, share Mr Williamson view that the leadership of the party has been far too apologetic in response to the smears of anti-semitism which have been so liberally made by discontented members of the PLP.

No matter. An enquiry was carried out and the suspension was lifted. Now – shockingly – after a wave of hysterical abuse by the media and Margaret Hodge and Louise Ellman etc. Mr Williamson has been suspended again.

Trying to express my concerns as a member to the head office of the party seems well-nigh impossible. However, please pass on my concern about this gross abuse of procedure in order to try to pacify the baying of our right-wing media. Sadly, I feel that Mr Williamson will shortly be joining other honourable members who have been hounded out of the party – Ken Livingstone and Marc Wadsworth to name two. Should that happen, I would have little option but to resign.

Good wishes from a deeply saddened,  
Jacob Ecclestone (South Norfolk)"

## **2. Withheld for reasons of confidentiality**

### **3. Excerpt from a Response to a Notice of Investigation by a Jewish member of JVL**

#### **Issues around Confidentiality**

**i)** I want to ask for clarification over the issue of being asked (?) told (?) to keep this matter being confidential; something that bothers me a great deal and I know has caused distress to others in a similar position

**ii)** In the hours after the NOI arrived I had some difficulty doing normal things as I felt shaky and upset and it was hard to concentrate. This was to be expected whether the NOI was justified or not. Now, the following day, I still feel very stressed about it.

It is not conducive to anyone's mental health to "bottle up" upsetting experiences. I have worked for many years in the field of mental health, and have seen the relief people get from speaking about things they have previously kept secret. I think that the Labour Party must know this too.

**iii)** In theory, your request (?) / instruction (?) in the letter means that I could not even tell my partner, my sister or my (adult) son which would be very weird indeed.

**iv).** Does the Labour Party really want any of us troubled by NOIs to have to ask for support from the Samaritans, our GPs or the CAB, when those organisations are already struggling to cope with the demands on them, rather than being able to talk to friends and family? This is what the letter states.

**v)** No-one else's privacy is put at risk if I share the contents of this NOI. The other people referred to in it have already put the posts in question into the public arena attached to their names.

**vi)** I understood that the Party had told a court hearing that the confidentiality clause in relation to one's own NOI is a request rather than an instruction – please tell me if I am mistaken. I have found some details on this at <https://www.matrixlaw.co.uk/wp-content/uploads/2021/07/Neslen-v-Evans-approved-judgment.pdf>

The issue is covered in Paragraphs 56 to 59. It appears to state that keeping the matter confidential is a request, not an instruction BUT that if the request is not adhered to the party may take disciplinary action. Which makes it sound like an instruction. Can you please clarify?

**vii)** I also looked at the web-pages on confidentiality as referred to in your letter. <https://labour.org.uk/members/my-welfare/my-rights-and-responsibilities/labours-confidentiality-and-privacy-policy/>.

There I found the following in section 9,b. "[Members] ...must avoid disclosing any such information, correspondence or Confidential Matters to any party, except...

Where it is necessary for a member who is subject to disciplinary proceedings to make disclosure for the purpose of and in order to obtain legal advice, medical or social support, or support from close family members, trade unions, the NEC or any national officer acting under the NEC's or the General Secretary's delegated powers;"

This is different from what is said in your letter; other sources of support are referred to here as acceptable. Close family members are included. Also sources of social support, though what that means is unclear. Does it include friends? If not, what sources of social support does the party have in mind?

Yours sincerely

Name withheld by request



## **Lack of progress on complaints by Jewish Labour Party members**

The Labour Party Action Plan places great stress on the Party improving its complaint handling process. We submitted a list of complaints by mainly left-wing Jewish members that had been ignored. We have asked each of the complainants whether they had had any further communication from the Party since they informed us of their complaints in late July and early August. None had heard anything in the intervening four months during which time we know the Party has been investigating, suspending and expelling many members, Jewish and non-Jewish, for alleged antisemitism, often for alleged offences registered with the Party some time ago and now resurrected.

We note the [report published by NEC member Luke Akehurst](#) of the 17 September meeting in which he says:

There was a backlog of 5,200 outstanding complaints being worked through. The Executive Director of Legal Affairs, Alex Barros-Curtis, said that the process of going through the backlog would take 6 months and was in its 7th week. External additional staff had been trained in Labour's rules and processes to do this. 3,000 cases had been assessed so far, of which 30% had been closed at assessment stage as they did not merit investigation.

Alex Barros-Curtis was asked about the new submission to the EHRC from Jewish Voice for Labour (JVL), who have claimed Labour has disproportionately expelled Jewish members. He said the party utterly refutes the submission made JVL: "Particularly that we disproportionately target them, and also that we ignore any complaints we have of theirs. Indeed, those complaints are actually in the backlog - so will be dealt with as part of the clearance project, which will mean these are resolved as swiftly as possible."

While over half the outstanding complaints had been processed by mid-September, and presumably many more since then, it is striking that none of the complaints referred to in our submission appear to have had any action taken on them.

We wish to add a further item to our list of complaints that have not been responded to. We attach a copy of a letter that was sent to the EHRC in mid-November concerning the failure of the Labour Party to respond to a complaint by three Jewish Labour Party members, two distinguished lawyers and a world-renowned professor, about the behaviour of an MP. Again, to date, there has been no response from the Party.

We find the willingness of the party to actively pursue complaints about their members who critical of Zionism, while ignoring complaints from these members to show discriminatory behaviour on the basis of a genuine philosophical belief.



Date: 2 March 2021

**Strictly Private and Confidential**

The General Secretary  
The Labour Party  
Southside  
105 Victoria Street  
London  
SW1E 6QT

By email only: [appeals@labour.org.uk](mailto:appeals@labour.org.uk)

**GROUND OFS OF APPEAL**

Dear General Secretary,

**Appeal against the punitive suspension of Michael Howard**

**1. Introduction**

- 1.1 We act for Mr Michael Howard in respect of his punitive suspension from the Labour Party (the “Party”) as communicated by letter dated 19 February 2021. The below constitutes his grounds of appeal and request for reconsideration by the National Constitutional Committee (the “NCC”), including a hearing at which he is entitled to make representations. We also request a copy of the full copy of the report presented to the Disputes Panel National Executive Committee (the “NEC”) that made the decision to suspend, as well as any documents recording that Panel’s decision as set out more fully below.
- 1.2 We would note that we consider that the process leading to our client’s punitive suspension, as well as the punitive suspension itself, to be unlawful, and we do not consider all such matters can be rectified on appeal given the limited grounds of appeal proscribed by the Rule Book.

SENIOR CONSULTANTS  
Sir Geoffrey Bindman QC\*  
Stephen Grosz QC\*  
Saimo Chahal QC\*  
Lynn Knowles

PARTNERS  
Tayab Ali  
Tamsin Allen  
Liz Barratt  
Jules Carey  
Jon Crocker  
Yagmur Ekici  
Kate Gool  
John Halford  
Charlotte Haworth-Hird  
Alison Leivesley  
Siobhan Kelly  
Alla Murphy  
Olivia Piercy  
Jamie Potter  
Paul Ridge  
Amrit Rana  
Amy Rowe  
Alison Stanley  
Anna Thwaites  
Katie Wheatley

ASSOCIATES  
Salima Budhani  
Emma Cohen  
Maud Davis  
Neil Emery  
Ashley-Jayne Fleming  
Roberta Haslam  
Laura Hobey-Hamsher  
Catherine Jackson  
Pauline Lam  
Jude Lanchin  
Alison Mackintosh  
Karen May  
Jessica Skinnis  
Sheetul Sowdagur

SOLICITORS  
Karan Ahluwalia  
Sumaiyah Anwar  
Clara Barry Born  
Joanna Bennett-ccc  
Jessie Brennan  
Elizabeth Cleaver  
Samuel Cronin  
Alice Davis  
Rachael Davis  
Emily-Jade Defriend  
Abigail Evans  
Christian Hansen  
Rachel Harger  
Ella Jefferson  
Robert Maddox  
Hannah Marshall  
Carla Mirallas  
Joseph Morgan  
Oliver Oldman  
Patrick Ormerod  
Shelly Pastakia  
Jen Parker  
Caroline Robinson  
Basmah Sahib  
Emma Varley  
William Whitaker  
Rosaleen Wyllie  
Louisa Zangina  
Daniel Zona

LAWYER  
Melissa Arnold

CONSULTANTS  
Tony Taylor

\*Honorary

Contracted with  
the Legal Aid  
Agency

**Fraud Panel**

**Bindmans LLP**

236 Gray’s Inn Road London WC1X 8HB  
DX 37904 King’s Cross Telephone 020 7833 4433 Fax 020 7837 9792  
[www.bindmans.com](http://www.bindmans.com) [info@bindmans.com](mailto:info@bindmans.com)

Bindmans LLP is a limited liability partnership registered in England and Wales under number OC335189. Its registered office is as set out above. The term partner means either a member of the LLP or a salaried partner.



Authorised and regulated  
by the Solicitors  
Regulation Authority  
with SRA authorisation  
number 484856

In this respect, the Party is no doubt aware that Mr Howard is a claimant in the current proceedings, *Neslen v Evans*, and the grounds of appeal set out below are made without prejudice to any existing arguments made in that litigation and the fact that Mr Howard does not accept the legitimacy or lawfulness of the Party's current disciplinary processes.

- 1.3 While we address the substance of the allegations against our client as far as is possible based on the limited information provided by the Party to date, we reserve the right to make further representations if and when further information is disclosed.

## 2. Background

- 2.1 Mr Howard has been a member of the Labour Party for a total of 35 years since 1970, including as a twice elected Borough Councillor from 2012-2018. Moreover, as Mr Howard has explained in his response and elsewhere, he is Jewish and his family escaped to Britain as refugees from the pogroms in Russia and Poland in the early 20th Century. His grandparents and immediate family were members of the 'Federation of Synagogues' and are buried in the 'Federations' Cemetery at Rainham. He was brought up as Jewish and suffered periodic anti-Semitism, including being called "a fat Jew boy", and at the age of 15 had to leave school permanently.
- 2.2 Immediately prior to his punitive suspension, Mr Howard was a member of his CLPs Executive Committee and had, just six days earlier, been accepted as a LP Borough Council candidate for the May 2021 elections. He continues to receive emails regarding his candidature and related Labour Party matters, which are exacerbating the distress of his suspension.

### *The Suspension and Investigation Letter*

- 2.3 Having never previously had any concerns raised about his conduct, on 19 June 2020, Mr Howard received a Notice of investigation (the "NOI") indicating he was being investigated for a breach of rule 2.1.8 and that his case "*may be suitable for the use of NEC disciplinary powers under Chapter 1 Clause VIII.3.A.iii\*\*\* and Chapter 6 Clause 1.1.B\* because it involves an incident which may reasonably be seen to demonstrate hostility or prejudice based on race, religion or belief.*" This procedure allows the NEC to make a decision to punitively suspend a member (or apply any other sanction) without any oral hearing or witnesses (the "**Fast-track Procedure**"). No explanation was given as to how it would

be determined if the Fast-track Procedure should indeed be applied to Mr Howard (given it is expressed only as a possibility).

- 2.4 The letter otherwise referred to three draft charges, which have only been upheld by the NEC in part (albeit it is not entirely clear). Those that appear to have been upheld are that:

*“1. Michael Howard (the Respondent) has engaged in conduct prejudicial and / or grossly detrimental to the Party in breach of Chapter 2 Clause 1.8 of the Labour Party Rule Book 2019 by engaging in conduct online which:*

*...*

*c. undermines the Party’s ability to campaign against racism.*

*i. Items 1-13*

*2. Denies and / or minimises complaints of antisemitism in the Labour Party*

*a. Items 1 - 13 for example the comment “risk causing real antisemitism” (Item 1), “bogus claims of antisemitism” (Item 4), “where is there any real irrefutable evidence that actual Party members are guilty of anti-Jewish, not anti-zionist sentiment?” (Item 5) and “to suggest we have a real problem with antisemitism is ridiculous” (Item 8)”*

- 2.5 The charges were followed by eleven questions and thirteen items of “evidence”, albeit charges have only been upheld in respect of six of those items of evidence (Items 1, 4, 5, 8, 9 and 11), dating from between 2 August 2018 and 21 February 2019. The below focuses only on the charges seemingly upheld and the evidence on which reliance was apparently placed.

- 2.6 Mr Howard was given fourteen days to respond and was only told to include: (i) a written statement of representation in his defence; (ii) any evidence he wished to submit; and (iii) a written response to the questions posed.

*Mr Howard’s response*

- 2.7 Mr Howard sought an extension of time, which was eventually granted after several chasers. He responded in detail on 16 July 2020 (within the

extended deadline), raising serious concerns both about the Party's approach generally and the charges against him. Of particular note:

- (a) he raised concerns about why the complainant's identity had been kept secret and asked to be informed of the identity of the complainant;
- (b) he expressed the view that the complaint was both vexatious and anti-Semitic, and that he was "*very angry and upset*" by it;
- (c) he noted the strong support he had from his CLP and provided character references from Jewish and non-Jewish individuals; and
- (d) he explained his background including his experience of being on the receiving end of targeted and specific anti-Semitic attacks.

#### *The suspension letter*

2.8 The Party never responded to Mr Howard's concerns regarding the anonymity of the complainant or his own complaint of anti-Semitism. Instead, on 19 February 2021 (some eight months later and two years after the most recent item of "evidence"), Mr Howard received a further letter from the Party (the "**Suspension Letter**") confirming he had been punitively suspended and recording the Panel's conclusions (reached at a meeting on 18 February 2021) as follows:

*"1. The Panel determined that your conduct was in breach of Chapter 2 Clause 1.8; in particular, it can reasonably be seen to demonstrate hostility or prejudice based on race, religion or belief.*

*2. In coming to this conclusion, the Panel considered that your comments of 02 August 2018 (Item 8), 12 August 2018 (Item 4), 31 August 2018 (Item 1), 26 October 2018 (Item 9), 05 February 2019 (Item 5), and 21 February 2019 (Item 11) are prejudicial because they ignore legitimate and genuine complaints of antisemitism, or they suggest that Jewish members are deliberately making up complaints of antisemitism in order to undermine the Labour Party. The Panel further considered that these comments undermine the Labour Party's ability to campaign against antisemitism.*

3. *That the case was suitable for use of the powers under Chapter 1, Clause VIII.3.A A and Chapter 6 Clause I.1.B of the Labour Party Rule Book for the following reasons:*

*a. The Panel determined that condition i (“the proposed charge and all evidence to be relied upon have been put to the individual member or members under investigation”) had been met because the proposed charge and all evidence to be relied upon was put to you on 19 June 2020.*

*b. The Panel determined that condition ii (“the individual member or members under investigation has been given a reasonable opportunity to submit any evidence and make any representations in response to the proposed charge”) had been met because you had been granted an extension on 01 July 2020 and you submitted written representations and supporting documentation on 16 July 2020.*

*c. The Panel determined that condition iii (“there is sufficient evidence in documentary or other recorded form to reasonably conclude that the charge is proven and justify the sanction proposed”) had been met because the evidence to support the charge consists of screenshots of material that you admit to posting on social media.*

*d. The Panel determined that condition iv (“the evidence relied upon is sufficient to conclude that the charge is proven and justify the sanction proposed without the reasonable need for witness evidence”) had been met because the case did not involve any witness evidence.*

*e. The Panel determined that condition v (“there is no other compelling reason to determine the matter by an oral hearing”) had been met because the Panel did not believe that the strength of the evidence on either side would not be improved through cross-examination or an oral hearing.*

*f. The Panel determined that condition vi (“no member of the panel taking the decision has been involved in the conduct of the investigation or making of recommendations as a result of the investigation”) had been met because no*

*member of the Panel had been involved in the investigation or the making of the recommendation.*

*Taking into account all relevant evidence, and the factors above, the Panel has concluded that the appropriate sanction is to suspend you from membership of the Labour Party for a period of 18 months under Chapter 1, Clause VIII.3.A.iii.c of the Labour Party Rule Book.”*

2.9 No further explanation or reasoning was provided.

**3. Grounds of Appeal and reasons the Fast-track Process and suspension was unlawful**

3.1 We address relevant matters in respect of the prescribed grounds of appeal below. However, such matters also give rise to unlawfulness pursuant to the contract between Mr Howard and all other members of the Party. In particular, it has been emphasised by the Courts (including, for example, in *Jones v McNichol* [2016] EWHC 866 (QB) at [43]) that the disciplinary powers of the Labour Party must be exercised fairly, which concept includes that the power must not be exercised arbitrarily, capriciously or in bad faith.

3.2 Such principles have most recently been reiterated by the Court in *Williamson v Formby* [2019] EWHC 2639 (QB), in which the Court expressly rejected the Party’s arguments that it should be treated as a sports or social club with very limited oversight by the Courts and reinforced that there must be “*proper grounds*” for disciplinary decisions. As to what may constitute “*proper grounds*”, the Court observed at [61]:

*“An important aspect of acting judicially is that the NEC should decide cases fairly and impartially in accordance with the rules and evidence; and not be influenced by how its decisions are seen by others.”*

3.3 In this case, the Party’s process and decision has been unfair, arbitrary capricious and otherwise not in accordance with the Rules. This is particularly apparent in respect of the Suspension Letter itself which offers insufficient explanation of the evidence and argument presented to it and the basis on which the Panel concluded that such evidence

“proved” the charges and breach of the Rules, let alone justified the severe sanction applied.

- 3.4 It is a fundamental tenet of procedural fairness and natural justice that a judicial or quasi-judicial decision making body, particularly one imposing disciplinary sanctions, must provide sufficient reasons for its decision, such that the reasons can be understood and an appeal can be considered. The inadequacy of such reasons in this case is sufficient basis alone to overturn the Panel’s decision. Such reasons cannot be developed or presumed on appeal. We would invite the NCC to overturn the Panel decision on this basis alone irrespective of whether or not it falls within one of the prescribed grounds of appeal. If it will not, it is only furthering the unfairness that has been suffered by our client.

*i. The proposed charge and all evidence to be relied upon has not been put to the member under investigation;*

- 3.5 Our client has never been provided with the charge considered by the Panel and the “evidence” or argument upon which the Panel relied in reaching its decision. It seems unlikely this was solely the charges and evidence presented in the NOI. Moreover, the Rules themselves specifically provide at Chapter 6, Clause I.B that a report must be submitted by the General Secretary of other National Officer to the Panel in advance of a decision. No such report has ever been disclosed to our client.

- 3.6 However, even if it was solely the charge and the evidence included in the NOI that was presented to the Panel, this means the investigators took no steps at all to address the concerns raised in Mr Howard’s response including regarding the identity of the complainant and Mr Howard’s concerns regarding their motivations. This is clearly an unfair, arbitrary and capricious response to such serious matters. Alternatively, if such matters were addressed, then this was never communicated to our client, also rendering the decision unfair and in breach of the rules.

- 3.7 The decision of the Panel should be overturned on this basis.

*ii. The member under investigation has not been given a reasonable opportunity to submit any evidence and make any representations in response to the proposed charge;*

- 3.8 Fundamentally, such an opportunity has been denied to our client by the insufficient explanation of how the “evidence” is said by the Party to be



linked to the “charges” raised against him. In particular, no link whatsoever is offered between charge 1(c) and the evidence presented. As to charge 2, this is only expressly linked to Items 1, 4, 5 and 8, but was ultimately found proven by the Panel also in respect of Items 9 and 11. Our client never had an opportunity to respond to that charge in respect of those Items.

- 3.9 Moreover, the charges themselves and their association with the Rules are so uncertain as to be unlawful. It is entirely unclear what is meant by, for example, “*undermines the Party’s ability to campaign against racism*” and nor does such a charge form part of the conduct described in the Rules that may lead to expulsion. Such phrasing can only be found in the Code of Conduct, which does not itself form part of the Rules of the Party (and therefore the contract between the members).
- 3.10 It is also suspected that the Panel may have taken into account a “Code of Conduct”, which was not provided to our client at any stage during the investigation process, and most importantly prior to him responding to the charges. For the avoidance of doubt, consideration of such a “secret” Code of Conduct renders the decision unlawful on grounds of both irrationality and procedural unfairness.

*iii. There is insufficient evidence in documentary or other recorded form to reasonably conclude that the charge is proven and justify the sanction proposed;*

- 3.11 It is essentially impossible for our client to provide submissions under this ground of appeal in the absence of sufficient reasoning being provided as to how the Panel reached its conclusions. He does not know why the Panel accepted his response in respect of some of the “evidence” (in respect of which the charges were not found proven), and why it was rejected in respect of other aspects of the “evidence”.
- 3.12 It is wholly insufficient for the Panel simply to record that the relevant condition was met because “*the evidence to support the charge consists of screenshots of material that you admit to posting on social media.*” All this establishes is that Mr Howard posted the relevant words, not what they meant or how they could reasonably be interpreted. It is not sufficient “*to reasonably conclude that the charge is proven and justify the sanction proposed*”. What is clearly necessary in a case such as this is for the Panel to consider the full context of our client’s statements (across these and other posts), how they can reasonably be interpreted,

evidence relating to actual prejudice or detriment caused to the Party by those particular posts, as well as evidence and knowledge as to actual levels of anti-Semitism within the Labour Party. Given no such evidence was ever presented to our client we can only assume that it was not considered by the Panel and the Appeal must be allowed on this basis.

- 3.13 It is, however, also worth reiterating that the Rules expressly provide that:

*“The NEC and NCC shall not have regard to the mere holding or expression of beliefs and opinions except in any instance inconsistent with the Party’s aims and values, agreed codes of conduct, or involving prejudice towards any protected characteristic.”*

- 3.14 Moreover, the Equality and Human Rights Commission, the findings of which have been publicly accepted by the Party include that:

*“Article 10 will protect Labour Party members who, for example, ... express their opinions on internal Party matters, such as the scale of antisemitism within the Party, based on their own experience and within the law.”*

- 3.15 The statements attributable to our client are quintessentially *“expressions of beliefs and opinions”* relating to internal Party matters based on his own experience and within the law. Even if they are controversial or strongly worded, they cannot properly be said to demonstrate prejudice towards any protected characteristic, and fall well within the bounds of appropriate speech, particularly taking into account our client’s own experience of anti-Semitism as a Jewish man.

- 3.16 Beyond alleging that the comments undermine the Labour Party’s ability to campaign against antisemitism, which is so vague as to be impossible to respond to, the only other justifications given by the Panel for finding the charges proven is that the relevant items of evidence are prejudicial because:

- (a) *“they ignore legitimate and genuine complaints of antisemitism”;*  
or
- (b) *“they suggest that Jewish members are deliberately making up complaints of antisemitism in order to undermine the Labour Party.”*

- 3.17 Neither justification stands up to an analysis of the words actually used.
- 3.18 We assume, although cannot be sure, that the Panel was interpreting our client's references to "*real anti-Semitism*" (eg Item 1) as ignoring legitimate and genuine complaints of anti-Semitism or suggesting that Jewish members were deliberately making up complaints. Our client has, however, explained the context in which he uses this phrase is to refer to physical and other proximate attacks on specific Jewish individuals or the Jewish Community such as that he and his family have faced from right-wing anti-Semites over decades. We attach other writings of our client that explain this in even more detail, namely:
- (a) his submission to the NEC on the IHRA Definition, made at broadly the same time as the relevant tweets; and
  - (b) his testimony to the EHRC Investigation.
- 3.19 We also maintain that, as a Jewish man, our client is entitled to an opinion as to what he does, and does not, consider to be "*real anti-Semitism*". We would invite the Party to confirm whether any of the Panel members were themselves Jewish. It would be of significant concern, and we would argue unlawful, if a non-Jewish Panel was seeking to impose its own definition of anti-Semitism on a Jewish respondent where no such definition exists within the Labour Party Rule Book.
- 3.20 Our client otherwise refers to "*the bogus claims of anti-semitism*" (eg Item 4), "*the fiction of rampant anti-semitism in OUR Party*" (eg Item 5) and that the Party is "*NOT institutionally antisemitic*" (eg Item 11). He does not, however, deny there are "*genuine and legitimate complaints of anti-Semitism*" in doing so - indeed he expressly acknowledges in Item 8 that there are such genuine complaints. He is, however, entitled to the opinion that there are "*bogus claims*" and that anti-Semitism is not "*rampant*". Not all complaints of anti-Semitism are upheld by the Party and nor were all found to be valid by the EHRC. The total number of complaints that have been upheld are extremely small compared to the total membership of the Party. Our client is entitled, based on his own knowledge and experience to consider some such complaints to be bogus (see, eg, Item 11).
- 3.21 He is similarly entitled to the opinion that some people are deliberately making complaints of anti-Semitism to undermine the Party. Nowhere does he specifically allege this against Jewish members alone.

3.22 In addition, his statements must be viewed in the context of what was known and understood at the relevant time, namely that there was significant media reporting of anti-Semitism within the Labour Party, but little actual evidence of its level. The Chakrabarti Report, published just two years earlier had expressly concluded: *“The Labour Party is not overrun by antisemitism, Islamophobia or other forms of racism.”* Baroness Royall reached a similar conclusion in respect of her report on the Oxford University Labour Club. And just a few months before Mr Howard’s statement, the then Leader of the Party said the following in an interview with The Jewish News:

*“Of the Labour Party cases, some of which I inherited on becoming leader, there’s been 300 references since 2015, 60 are still under investigation, 24 have gone to the National Constitutional Committee, 24, roughly, went to a final warning, and 150 were either expelled or resigned. That represents 0.02 percent of the party membership. There are other cases pending.”<sup>1</sup>*

3.23 Our client’s views are wholly consistent with these statements and therefore the position of the Party at the relevant time.

3.24 Finally it is not clear how Item 9 could be said to meet these charges at all.

3.25 Our client reserves the right to expand on this ground of appeal should further reasons be provided, but otherwise refers the NCC to his response (which was similarly constrained by the absence of explanation for the charges as set out elsewhere in these grounds of appeal).

*iv. The evidence relied upon was insufficient to conclude that the charge is proven and justifies the sanction imposed without the reasonable need for witness evidence;*

3.26 The inadequacies of the evidence are set out in detail above. They include serious questions as to the basis of the charges. Such matters could only properly be addressed through witness evidence addressing the meaning, intent and impact of our client’s communications. The Panel had no proper basis to conclude otherwise, particularly in the circumstances where this possibility had never been raised with our client.

---

<sup>1</sup> <https://jewishnews.timesofisrael.com/exclusive-corbyn-interview/>.

*v. There was another compelling reason to determine the matter by an oral hearing and our client was denied the right to make representations on this issue;*

3.27 The possibility of an oral hearing was similarly never raised with our client. He was therefore never afforded the opportunity to make representations on this issue. Accordingly, no proper conclusion on this matter could have been reached by the Panel and the decision must, again, be overturned on this ground alone.

3.28 In any event, there clearly were compelling reasons to determine the matter only after an oral hearing, not least: (i) the seriousness of the sanction under consideration, particularly in circumstances where our client had recently been chosen as a candidate for the May elections; and (ii) Mr Howard's clear concerns regarding the probity of the process and his denial of any wrongdoing.

*vi. It is uncertain whether any member of the panel taking the decision has been involved in the conduct of the investigation or making of recommendations as a result of the investigation.*

3.29 It is unclear how Mr Howard could ever rely on this ground of appeal given he has been provided with no information as to (i) who was involved in the investigation; (ii) who made any recommendation to the Panel; or (iii) who was a member of that Panel. Given the inclusion of this ground of appeal in the Rules, it is clearly envisioned that such information should be provided to a member of investigation. Please therefore provide such information forthwith. If you will not, the Panel decision should be overturned on this ground alone.

#### **4. Conclusion**

4.1 In light of the above, we would invite the NCC (or NEC) to immediately overturn the punitive suspension of our client and reinstate his full membership.

4.2 Should both bodies refuse to do so, then we require provision of the following documents, so that full representations can be made to the NCC:

- (a) a copy of all internal correspondence within the Labour Party concerning our client's disciplinary process, including that which originally recommended and approved his suspension;

- (b) a copy of any external correspondence concerning our client's disciplinary process including the original complaint regarding our client;
  - (c) a copy of any internal report or other document that led to the preparation of the NOI;
  - (d) a copy of the report that was submitted to the NEC Disputes Panel concerning our client;
  - (e) a copy of the minutes of the NEC Disputes Panel meeting;
  - (f) full reasons for the decisions of the NEC disputes panel; and
  - (g) the names of all individuals involved throughout the process and their role.
- 4.3 We also seek confirmation that an oral hearing will be held before the NCC regarding this matter given the significance of the concerns raised.
- 4.4 Please acknowledge safe receipt of this letter promptly and within 7 days of the date of this letter, that is by **9 March 2021**.
- 4.5 Please otherwise provide a full response within 14 days of the date of this letter, that is by **16 March 2021**.

We look forward to hearing from you.

Yours faithfully

A solid black rectangular box used to redact the signature of the sender.

**Bindmans LLP**

Date: 13 April 2021

## Strictly Private and Confidential

The General Secretary  
The Labour Party  
Southside  
105 Victoria Street  
London  
SW1E 6QT

By email only: [appeals@labour.org.uk](mailto:appeals@labour.org.uk)

### FURTHER SUBMISSIONS ON CODE OF CONDUCT ON ANTISEMITISM

Dear General Secretary,

**Appeal against the punitive suspension of Michael Howard [REDACTED] and request for case to be reconsidered by NEC**

#### 1. Introduction

- 1.1 We continue to act for Mr Michael Howard in respect of his punitive suspension from the Labour Party (the “Party”) and write further to his grounds of appeal filed with the Party on 2 March 2021. Since those grounds of appeal were filed, the Party has published a Code of Conduct on Antisemitism as part of its Complaints Handling Handbook, which it has been using to adjudicate on complaints, without informing respondents. This was specifically foreshadowed in the grounds of appeal and gives rise to substantive unfairness.
- 1.2 In the context of the litigation, *Neslen v Evans*, in which Mr Howard is a claimant, the Party has indicated that Mr Howard is permitted to make further submissions regarding the Code of Conduct. This opportunity,

SENIOR CONSULTANTS  
Sir Geoffrey Bindman QC\*  
Stephen Grosz QC\*  
Saimo Chahal QC\*  
Lynn Knowles

PARTNERS  
Tayab Ali  
Tamsin Allen  
Liz Barratt  
Jules Carey  
Jon Crocker  
Yagmur Ekici  
Kate Goold  
John Halford  
Charlotte Haworth-Hird  
Alison Leivesley  
Siobhan Kelly  
Alla Murphy  
Olivia Piercy  
Jamie Potter  
Paul Ridge  
Amrit Rana  
Amy Rowe  
Alison Stanley  
Anna Thwaites  
Katie Wheatley

ASSOCIATES  
Salima Budhani  
Emma Cohen  
Maud Davis  
Ashley-Jayne Fleming  
Roberta Haslam  
Laura Hobey-Hamsher  
Catherine Jackson  
Pauline Lam  
Jude Lanchin  
Alison Mackintosh  
Karen May  
Jessica Skinns  
Sheetul Sowdagur

SOLICITORS  
Karan Ahluwalia  
Sumaiyah Anwar  
Clara Barry Born  
Joanna Bennett-ccc  
Jessie Brennan  
Hester Cavaciuti  
Elizabeth Cleaver  
Samuel Cronin  
Alice Davis  
Rachael Davis  
Emily-Jade Defriend  
Abigail Evans  
Christian Hansen  
Rachel Harger  
Ella Jefferson  
Robert Maddox  
Hannah Marshall  
Carla Mirallas  
Joseph Morgan  
Oliver Oldman  
Patrick Ormerod  
Shelly Pastakia  
Jen Parker  
Caroline Robinson  
Megan Rothman  
Basmah Sahib  
Emma Varley  
William Whitaker  
Rosaleen Wyllie  
Louisa Zangina  
Daniel Zona

LAWYER  
Melissa Arnold

CONSULTANTS  
Tony Taylor

\*Honorary

Contracted with  
the Legal Aid  
Agency

Fraud Panel

#### Bindmans LLP

236 Gray's Inn Road London WC1X 8HB  
DX 37904 King's Cross Telephone 020 7833 4433 Fax 020 7837 9792  
[www.bindmans.com](http://www.bindmans.com) [info@bindmans.com](mailto:info@bindmans.com)

Bindmans LLP is a limited liability partnership registered in England and Wales under number OC335189. Its registered office is as set out above. The term partner means either a member of the LLP or a salaried partner.

however, can only be meaningful if Mr Howard's suspension by the NEC is withdrawn and his case is reconsidered in light of those submissions and the previous submission made (including the matters raised in the grounds of appeal). We would therefore invite you to take this step.

- 1.3 Our client also remains of the view that the process leading to his punitive suspension, as well as the punitive suspension itself, was unlawful, and we do not consider all such matters as raised in the ongoing litigation are rectified by publication of the Code of Conduct. These submissions are therefore made without prejudice to any existing arguments made in that litigation and the fact that Mr Howard does not accept the legitimacy or lawfulness of the Party's current disciplinary processes.
- 1.4 We also do not repeat what has been said in submissions before and focus only on the six "items" of evidence, and the associated charges in respect of which Mr Howard was suspended, understanding no breach has already been found in respect of the other "items".

## **2. Submissions on the Code of Conduct**

- 2.1 The Panel's conclusions (reached at a meeting on 18 February 2021) in respect of Mr Howard were as follows:

*"1. The Panel determined that your conduct was in breach of Chapter 2 Clause 1.8; in particular, it can reasonably be seen to demonstrate hostility or prejudice based on race, religion or belief.*

*2. In coming to this conclusion, the Panel considered that your comments of 02 August 2018 (Item 8), 12 August 2018 (Item 4), 31 August 2018 (Item 1), 26 October 2018 (Item 9), 05 February 2019 (Item 5), and 21 February 2019 (Item 11) are prejudicial because they ignore legitimate and genuine complaints of antisemitism, or they suggest that Jewish members are deliberately making up complaints of antisemitism in order to undermine the Labour Party. The Panel further considered that these comments undermine the Labour Party's ability to campaign against antisemitism.*

- 2.2 No further substantive explanation or reasoning was provided.
- 2.3 The Code of Conduct in Antisemitism, which we understand would have



been considered by the Panel, but is not referred to in their decision, importantly recognises both the fundamental importance of the principles of freedom of speech and that antisemitism is hatred towards Jews or hostility towards individuals/ institutions, on the grounds that they are Jewish, which must be assessed taking into account all relevant context. Such matters are similarly not acknowledged in the decision.

- 2.4 As explained in the grounds of appeal, the statements attributable to our client are quintessentially “*expressions of beliefs and opinions*” relating to internal Party matters based on his own experience and within the law. Even if they are controversial or strongly worded, they cannot properly be said to demonstrate prejudice towards any protected characteristic, let alone antisemitism, and fall well within the bounds of appropriate and lawful speech, particularly taking into account our client’s own experience of anti-Semitism as a Jewish man. There is nothing in the word used by our client, or their wider context, that demonstrates hatred or hostility towards Jews or Jewish institutions. Our client is particularly insulted by the Party’s allegations given his background as a Socialist Jewish man with a family history of actively combatting racism. It would also be extraordinary for the Party to dictate that the expression by a Jewish man of his view of what antisemitism means is itself anti-Semitic.
- 2.5 It is therefore clear that our client acted well within the terms of the Code of Conduct on Antisemitism, and that he should never have been investigated, let alone suspended.
- 2.6 It should be noted further that the suspension of our client six days after his selection as a Council Candidate has prevented him from representing the Party again, despite his previous experience as a twice elected Labour Councillor.

### 3. Conclusion

- 3.1 We look forward to confirmation that the investigation into our client will be reopened and that his case will be reconsidered by a fresh NEC Panel taking into account these submissions, as well as all prior submissions, including the Grounds of Appeal, to which these submissions refer.

We look forward to hearing from you.

Yours faithfully



**Bindmans LLP**

## Annex 16

### Proscription in Starmer's Labour Party

---

At its meeting on Tuesday 20th July 2021, The National Executive Committee (NEC) of the Labour Party (LP) proscribed four organisations, Socialist Appeal, Labour in Exile Network (LIEN), Labour Against the Witchhunt (LAW) and Resist.

The ostensible reasons for proscription varied but for the two that have affected Jewish members the most, it has been for supporting LAW and/or LIEN both of which have been labelled as "antisemitism deniers".

Proscription will mean that members and supporters of these organisations are 'auto-excluded' from the Party. Although the details of what 'support' means for all the organisations has not been made public, according to Labour List, 'support' for LAW includes participation in events they have organised. In practice it has also consisted of one or more of the following:

- signing an open letter (LAW),
- speaking at a meeting organised by LIEN
- "liking" Facebook posts of those organisations
- Attending a zoom meeting organised by one of the proscribed organisations

Many Jews have been caught up in this extraordinary definition of 'support' and will therefore be unfairly and unjustly labelled as antisemitic, possibly without any prospect of appeal. LAW was formed in the face of a wave of LP members being wrongly accused of antisemitism. LAW (like all the proscribed organisations) abhors antisemitism, drawing on the respected Jewish scholar, Brian Klug's definition. Amongst the half dozen sponsors of LAW are three prominent Jews, Alexei Sayle, Professor Moshe Machover and Noam Chomsky. Machover, an Israeli Jew and scholar, is one of many Jewish people who have been accused of antisemitism.

Jewish Voice for Labour (JVL) has not (yet) been put forward for proscription. The MP for Bermondsey and Old Southwark, Neil Coyle, tweeted that JVL should also 'be gone too' on Saturday 17th July. Many complaints were made to Twitter, Facebook and to the Party. Coyle removed that tweet from his Twitter feed later on the next day, although it can still be found elsewhere on the internet.

The complaints identify Coyle's comment as antisemitic in his call for hundreds of Jews to be expelled from the Party. Those with an authoritative knowledge of Jewish political history, such as David Rosenberg, trace the origins of prejudice against Jewish revolutionaries and socialists to the early twentieth century. They point out how this prejudice, common amongst political conservatives, even infected the Labour movement in the 1930s and 1940s. Rob Ferguson comments "A vile undercurrent of animosity towards left-wing, internationalist Jews is now re-emerging on the Labour right. Coyle's call to expel Jewish members who criticise or oppose Israel is simply an explicit reflection of a deeper phenomenon." As JVL puts it

<https://www.jewishvoiceforlabour.org.uk/article/a-call-for-jvls-expulsion/>

We in JVL have little doubt that it is our Jewishness as well as our left-wing politics that is increasingly coming under fire. Our Jewishness does not fit.

It is of significance that The Jewish Chronicle reported on 20 July that: "The JC understands that one of the reasons the group JVL has not been included as one of the groups to proscribe is because they would have "reasonable" grounds to sue the party for discrimination."

The source said that "a fair number" of the group's executive is currently suspended and they hoped they would become "insignificant."

The JC is frequently well briefed by knowledgeable members of the Party staff and we believe this probably accurately reflects how at least some of the most senior officers of the Party wish to deal with the risks they may face by attempting to proscribe a Jewish organisation like JVL.

Since our first submission there has been a dramatic escalation in the number of Jews being disciplined by the Labour Party for allegedly being caught in the net of members or supporters of recently banned organisations: for actions that could not be foreseen to subject to sanction when they were undertaken.

The Labour Party is attempting to apply a notion of retrospective punishment for what was not punishable at the time, a concept that is fundamentally at odds with how our legal – and indeed moral – system works.

We reported on some of these new interventions in a post on the JVL website on 13th August called "Are you now or have you ever been....." pointing out that two of JVL's Officers, our Co-Chair Leah Levane and Political Officer, Graham Bash were among the recipients. At least two other prominent members have also received similar notices: longstanding Jewish Labour Party member, Roger Silverman and Jo Bird a prominent JVL member and local councillor.

Roger Silverman, Graham Bash and Leah Levane published their responses and rebuttals of the charges against them when they received their "Notices of Possible Auto-exclusion" subjected to automatic exclusion,

Graham Bash, Jo Bird and Leah Levane have subsequently been expelled. for their support for, not membership of, a group with several prominent Jewish members and patrons Labour Against the Witch-Hunt. Graham Bash and Leah Levane are JVL Officers and Jo Bird a local councillor who stood for the NEC. Leah Levane was a Conference delegate for her CLP (Hastings and Rye) and was expelled on the second day of conference, on the morning when Conference was to debate the proposed Rule Changes to address the findings of the EHRC. Her expulsion letter offers no right of appeal, however, expulsion letters sent later do include that right. In all cases the "evidence" given predated the decision to proscribe. (See letters to Graham Bash and Leah Levane attached)

Automatic exclusion has traditionally been applied to people who stand against the Labour

Party or who nominate others who do so. Indeed, the letters of automatic exclusion cite Chapter 2, Clause I.4.B of the Labour Party Rule Book which provides: "A member of the Party who joins and/ or supports a political organisation other than an official Labour group or other unit of the Party, or supports any candidate who stands against an official Labour candidate, or publicly declares their intent to stand against a Labour candidate, shall automatically be ineligible to be or remain a Party member, subject to the provisions of Chapter 6.I.2 below of the disciplinary rules."

Even though Labour against the Witch-hunt (LAW) has not stood candidates against the Party or called for support for such candidates, the Party's letters state that the NEC had "confirmed that LAW constituted a "political organisation" for the purposes of Chapter 2, Clause I.4.B of the Labour Party Rule Book". Notably, as noted in the original Annex 4, LAW has a significant Jewish element.

Supporting some of the aims of an organisation clearly does not necessarily make one "a supporter" of that organisation in the way suggested (Labour has more voters than it has members, for example – clearly gathering support or even "supporters" from a wide range of the electorate).

We have pointed out the grave injustice of the entire procedure: the lack of natural justice when the support for and/or membership of the relevant organisations predated their proscription; and the fact that people were being asked to prove a negative, for as letters from the Labour Party state "failure to provide evidence that you are not a supporter of LAW, as defined by the NEC above, is very likely to lead to your automatic exclusion from membership of the Labour Party.

How would anyone prove that they are not a member, let alone a supporter of one of the banned organisations when the definition of "supporter" was being drawn wide enough to potentially include those who reposted Facebook and Twitter posts from those organisations or who expressed agreement with some, or all, of the positions adopted by these organisations which were perfectly legitimate activities at the time.

These proscriptions, and even more the extraordinarily wide reach of the notion of 'supporters' that is being employed, is clearly a device to expel members from the Party against whom there is no other 'evidence' of activity detrimental to the Party or any activity in breach of the Party's rules. It is profoundly undemocratic and an arbitrary silencing of political dissent, especially from its Jewish members, for whom the issues are of profound importance.

We repeat: the Labour Party is attempting to apply a notion of retrospective punishment for what was not punishable at the time, a concept that is fundamentally at odds with how our legal – and indeed moral – system works.

### **Addendum A development regarding LAW (Labour Against the Witchhunt)**

The Secretary of LAW, Stan Keable, was dismissed from his employment with the London Borough of Hammersmith and Fulham (LBHF), a Labour led Council with accusations of antisemitism. The leader of the Council specifically asked for action to be taken against him.

His dismissal was held to be unfair by an Employment Tribunal and LBHF appealed against the decision. *They lost the appeal.*

The case is significant for three reasons. First, the judgement given on free speech upholds the right under the Equalities Act to express anti-Zionist views, even though they may be offensive to some. While Mr Keable is not Jewish, his ex-wife and daughter are. The ex-wife wrote to the Tribunal expressing her view that Mr Keable is not antisemitic. The judgement provides support to anti-Zionist Jews who have been unfairly labelled as antisemitic.

Second, the judge comments about a fair and open procedure with effective communication engendering reflection (see below) are relevant to Labour's harsh and hostile approach to discipline, as exemplified by auto exclusions.

Third, the Labour Party has not seen fit to make public its reasons for proscribing LAW, although there are rumours and assertions that the organisation defends antisemites. The judgement confounds this assertion.

The brief details of the case are:

Mr Keable was dismissed in May 2018 after attending a rally outside Parliament ("Enough is Enough") at which both supporters and opponents of then Labour leader Jeremy Corbyn were present. Mr Keable was filmed at a great distance from his workplace, and footage of him speaking with another protester was shared without his consent on Twitter, where a BBC Newsnight journalist gave his words a misleading caption, "Anti-Semitism Didn't Cause the Holocaust and Zionists Collaborated with the Nazis." The film was seen by nearly 80,000 people.

He was investigated by Hammersmith and Fulham Council, who refused to put to Mr Keable the case which they then relied on in dismissing him – namely that the words he used were likely to be misunderstood online. Her Honour Judge Tucker upheld the finding of the original Tribunal that Mr Keable's dismissal was unfair, and that it was wrong of the employer to dismiss him without putting its case to him: "A fair and open procedure, where there is cooperation, genuine and effective communication regarding a disciplinary charge, is far more likely to engender reflection, perhaps regret or expressions of remorse which may in turn lead to better performance in the future, than a hostile, unduly adversarial or closed procedure". HHJ Tucker also upheld the Tribunal's findings that Mr Keable should be reinstated.<sup>1</sup>

Following the defeat of the employer's appeal, R& A solicitors said, "The decision of the Appeal Tribunal vindicates Mr Keable, who faced terrible accusations of antisemitism, which he has shown were false. The employer wanted to make this case about Twitter. They said that what matters is not what a person said but how words are perceived on social media. This judgment shows that they have wrongly punished an innocent man."

---

<sup>1</sup> It is worth noting how this is reported by the Campaign Against Antisemitism: [Secretary of Labour Against the Witchhunt who participated in counter-demonstration against Jews protesting Labour antisemitism wins council job back](#)

The EAT record may be found here:

[https://assets.publishing.service.gov.uk/media/6177d881e90e07197d8fb88e/London Borough of Hammersmith and Fullham v Mr SE Keable EA-2019-000733-DA.pdf](https://assets.publishing.service.gov.uk/media/6177d881e90e07197d8fb88e/London_Borough_of_Hammersmith_and_Fullham_v_Mr_SE_Keable_EA-2019-000733-DA.pdf)

Finally, LAW defends Ken Livingstone. This may be a painful reminder to this body, but he has been given leave by a court to go to judicial review with regard to his rights under the Equality Act 2010.

## **Annex 17**

**This Annex contains responses by two Jewish writers to articles of theirs being cited in allegations of antisemitism**

1. A letter to Keir Starmer by Jewish blogger Robert A.H. Cohen called *Why on earth is citing me antisemitic*
2. A statement by Leon Rosselson



## 1. Robert A.H. Cohen's letter to Keir Starmer

This was first posted on the Jewish Voice for Labour website on 22<sup>nd</sup> November 2021 [here](#):

### JVL Introduction

We are grateful to Robert A.H. Cohen, Jewish author of the [Writing from the Edge](#) blog, for sending us this letter, sent today to Keir Starmer, for publication.

It appears that some individuals have been issued with Notices of Investigation solely on the grounds that they have shared one of Cohen's blogposts.

He takes great exception to any suggestion that his most Jewish of writings are, in any way, antisemitic.

At the very least, he says to Starmer, it "displays a lack of knowledge and judgment by the Labour Party concerning current and historical Jewish dissent over Israel and calls into question your Party's understanding of honest opinion and free speech."

---

*Here is Robert Cohen's response*

Dear Sir Keir Starmer

It has come to my attention that the Labour Party is investigating charges of antisemitism against individual Party members based solely on the basis of them having shared a blog post I wrote in July 2018.

I write to point out how inappropriate and nonsensical it is to suggest that my work is in any way antisemitic. I also insist that you cease making accusations of antisemitism based on your members sharing or endorsing my words.

Although I am yet to seek formal legal opinion, it may be that the use of my writing in these disciplinary procedures amounts to public defamation. It certainly displays a lack of knowledge and judgment by the Labour Party concerning current and historical Jewish dissent over Israel and calls into question your Party's understanding of honest opinion and free speech.

### Frustration and despair

On July 28<sup>th</sup> 2018 I published a blog at Patheos, a non-denominational, non-partisan online website based in the United States which provides information and commentary from various religious and nonreligious perspectives. ["The Jewish establishment's 'war against Corbyn' risks bringing real antisemitism to Britain"](#) was a piece of political commentary, written in frustration and despair, about the state of the debate surrounding antisemitism in the UK. It was aimed (very precisely) at criticising the positions being taken by Jewish communal bodies and Jewish community newspapers against the Corbyn led Labour Party

at that time. The title of the blog deliberately echoed the [accusation made by the President of the Board of Deputies, Marie van de Zyl](#), that “it was like Jeremy Corbyn had declared war on the Jews”.

I stand by the observations and commentary I made in the article. I also note that the EHRC report published in October 2020 did not address the fundamental concerns I was expressing in 2018 regarding the scale of antisemitism within the Party; the disproportionate fear the tone of the debate was generating within the Jewish community; and the wider implications for the political strategy adopted by the formal leadership bodies within the Jewish community.

My blog took the position of a concerned and engaged British Jew who, in July 2018, saw the heated debates around antisemitism as deeply flawed and indeed dangerous for British Jewry. The piece was also highly critical of the IHRA document on antisemitism, seeing its championing by the Board of Deputies, and other Jewish communal leaders, as a political and moral mistake. I note that since 2018, the IHRA definition has continued to receive extensive criticism within the global Jewish diaspora (and of course from the global Palestinian solidarity movement) despite its presentation by UK Jewish leaders as being definitive and internationally accepted.

At no point in the blog did I show hostility or prejudice against Jews or Judaism in general or present stereotypes that are (in the words of the Party’s code of conduct): “mendacious, dehumanizing, demonizing, or stereotypical about Jews as such” or “the power of Jews as collective”. On the contrary, the blog aims its criticism not at Jews in general but at named organisations and those in leadership positions. The Board of Deputies, the Jewish Leadership Council and specific Jewish community newspapers are not, and should not be treated as, the only ‘voice’ of the Jewish community, as if British Jewry were a homogenous entity, devoid of the politics and diversity we see in every other aspect of British life and certainly within other religious and ethnic minorities. To do so, itself risks antisemitic attitudes which treats Jews as ‘all the same’.

The blog post itself, along with my ten years of blogging and speaking on issues of Jewish concern over Palestinian rights, demonstrates that the Jewish community is not monolithic in its outlook on political matters and should not be assumed to be by either Jewish or non-Jewish organisations. Furthermore, this blog does not, nor do any of my other writings, engage in “stereotypical allegations of Jewish control of the media, economy, government or other societal institutions”. Nor have I ever accused Jewish citizens of being “more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations”.

### **Challenging the analysis**

The only ‘crime’ the blog appears to have committed is to have challenged the analysis and strategy that was being pursued by specific Jewish institutions including Jewish media outlets. While the blog may be seen as an irritant by those criticised by it, it does not, by any stretch, amount to antisemitism. Nor can my work be portrayed as ‘antisemitism denial’ simply because it offers an alternative reading and analysis to that of the Board of Deputies.

There are complex and nuanced debates to be had about expressions of Jewish nationalism and what constitutes Jewish autonomy and Jewish self-determination in light of the experience of the Palestinian people over the last 100 years. Sadly, there appears to be no space for such recognition and reflection within the Labour Party, or indeed within the mainstream of the UK Jewish community.

I'm sure you are aware that there is a very long tradition of internal Jewish criticism of establishment Jewish leadership positions. It dates back to the Hebrew prophets of ancient Israel – Isaiah, Jeremiah, Amos, Micah – and it can be seen in every generation since.

In fact, internal Jewish debate is a long-standing and well-celebrated Jewish value – apart from when contemporary politics makes it inconvenient to those in leadership positions.

Over the years my work has been quoted by academics and theologians as being a principled, radical voice in British Jewry. I have been a guest on the BBC's Moral Maze and Beyond Belief radio programmes and have spoken at conferences around the UK. I now live in Leeds where I am a member of Leeds Reform Synagogue.

At the very least, my work (including the blog post in question) should be seen as honest opinion and fair comment. To characterise it as antisemitism demonstrates a lack of basic knowledge concerning the spectrum of current Jewish opinion on Israel. It also shows no awareness of the extensive literature of modern Jewish thought stretching back to the late 19<sup>th</sup> century which expressed dissent on numerous grounds (secular and religious) to the project of Zionism. The Labour Party's use of my blog in disciplinary procedures against its own members (including Jewish members) is not only ignorant and unfair, it is unjust and dishonest.

As for the allegation that sharing my blog post online and/or endorsing it could be: "undermining the Party's ability to campaign against racism", that is a political and strategic question for the Labour Party and for the formal leadership of the Jewish community to work through. My blog showed the challenges of addressing that question. That does not make it antisemitic in content or intention.

### **Obscuring diversity**

In the 2018 blog, I expressed my hope that: *"the British public will be able to understand the diversity of Jewish opinion on Israel that's mostly obscured by those who claim to speak for us in our entirety"*. I concluded the piece with the following observation, which the Party's disciplinary approach appears to have validated in 2021.

*"It is difficult, if not impossible, for non-Jewish voices to call out the attacks on Corbyn as disingenuous or at least motivated by an agenda more complicated than is being admitted to. The antisemitism allegations come thick and fast".*

Sir Keir, I ask that you desist from using my work to accuse your members of antisemitism and that you apologise for misrepresenting my work in this way.

**Robert Cohen,  
November 2021**

*Addressing specific charges:*

I now address the specific ‘charges’ being made against the blog post in letters I have seen sent to Party members. The ‘evidence’ of antisemitism is quoted from the letters to members in italics.

1. *The article states: “Britain remains one of the safest places to live as a Jew on the entire planet. That doesn’t mean there’s no anti-Jewish prejudice here. It’s just that there’s a great deal less of it than some people want you to believe.”*

**RESPONSE:** I would hope that the disciplinary department will have noticed that this sentence in the blog is hyperlinked to a page on the website of the [Institute for Jewish Policy Research](#), the most respected Jewish data collection body in the UK. There you will have found the JPR’s 2017 report on antisemitism in Britain. On page five of the report it states that “levels of antisemitism in Great Britain are among the lowest in the world”. So, I am quoting from reliably collected data and analysis. I then make clear that antisemitism DOES exist, but I wish to draw attention to the climate of fear created by the joint headline in three Jewish communal newspapers which claimed that there was an “existential threat” to “Jewish life” in the UK. This, I argue, is a gross exaggeration of the problem and distorts the available facts.

This is an honest opinion and not antisemitism on any of the measures listed in the Code.

2. *The article states: “Thanks to a Jewish communal leadership and a Jewish press which have merged Jewish interests in Britain with the need to defend the interests of the State of Israel, we are set on a path that risks turning fake antisemitism into real antisemitism.”*

**RESPONSE:** The first part of this quote gets to the heart of my critique and indeed to much of my writing over the last ten years. Any scholar of contemporary Jewish life accepts how Zionism and support for Israel (along with Holocaust remembrance) has become central to the attitudes and outlook of Jewish institutional bodies in all parts of the Jewish diaspora. This is NOT a controversial observation. The Board of Deputies of British Jews regularly issues statements to defend the actions of the State of Israel because it sees defending Israel as integral to defending Jewish interests and concerns in the UK. The final part of the quote reflects my anxiety that antisemitic opinions and behaviour will increase if the general public perceives Jews in Britain as culpable, or at the very least apologists, for actions by the State of Israel. In the blog, I am contrasting this danger with the “fake” headlines which expressed belief in a current “existential threat” to British Jews caused directly by Jeremy Corbyn.

At no point do I deny the existence of antisemitism in the Labour Party. However, I clearly question its extent (based on the evidence in the public domain in 2018). I believed (and still do) that the approach being taken by the Board of Deputies was heavy handed and counter-productive. This is a valid political opinion and not antisemitism.

3. *The article states: "I'm yet to see a credible piece of evidence that demonstrates that antisemitism is rife in the Labour Party."*

**RESPONSE:** The critical word in this quote is "rife". The number of investigations being undertaken by the Party concerning antisemitism in 2018 (according to the Party's own reporting) did not warrant the accusations that antisemitism was widespread or somehow endemic within the Party. It was a problem but it was far from "rife". The subsequent report by the EHRC (October 2020) did charge Labour with significant failings in how it had handled antisemitism investigations but the EHRC did not address or prove that antisemitism was widespread or rife or endemic within the approximately half a million party members.

4. *The article states: "But none of this is of the slightest concern to the Jewish community's leadership or its media. They only have one issue on their mind – Israel, and how best to protect it from criticism."*

**RESPONSE:** The "concern" being referenced in the quote is to the wider issues that would be at stake at the next general election, notably the future of Britain's role in the world and how the UK should address ten years of austerity. I argued that the Board of Deputies, and other Jewish establishment organisations, were pursuing their own narrow agenda in heavy-handed ways which were unjustified by the scale of the antisemitic problems within the Party.

While today's Labour Party leadership would certainly not agree with this reading or assessment many would have done in July 2018 at the height of the controversy. Once again though, a valid opinion is being (retrospectively) treated as being antisemitic because it is out of line with the current leadership and the view of mainstream Jewish organisations which present themselves as the only authoritative voices on Jewish affairs.

## 2. Leon Rosselson's statement

I understand that a member of the Labour Party has been suspended for sharing a blog of mine. The blog in question is about Rabbi Mirvis' intervention during the 2019 election campaign which was intended to damage Labour's electoral prospects. Since everything in the blog is factually true, since nothing in the blog is remotely antisemitic or racist and since no evidence has been cited to justify this action which I regard as an insult to my integrity, this suspension should be withdrawn and an apology offered to the member in question and to myself.

Sharing a blog means that the person sharing it believes that the opinions expressed are worth discussing, not that she necessarily agrees with them. Her right to discuss these opinions, however controversial they may be, is guaranteed under the Human Rights Act: *Article 10 protects your right to hold your own opinions and to express them freely without government interference.*

*This includes the right to express your views aloud (for example through public protest and demonstrations) or through:*

- *published articles, books or leaflets*
- *television or radio broadcasting*
- *works of art*
- ***the internet and social media***

***The law also protects your freedom to receive information from other people by, for example, being part of an audience or reading a magazine.***

The Labour Party's suspension is a blatant attempt to suppress the suspended person's freedom to receive information and to share and discuss it and could therefore be illegal.

It is also the height of hypocrisy for the Labour Party to accuse others of antisemitism since it is led by a man who not only habitually refers to 'the Jewish community' as if Jews constitute a monolithic body which thinks and speaks with one voice, an antisemitic conspiracy theory, but who also declares himself a follower of a political ideology, Zionism, which is itself antisemitic.

As I learned during my time in a Zionist youth movement, the basic premise of Zionism is that Jews do not belong in the countries where they have lived over the centuries, which is exactly what antisemites say. It is no surprise that the Kaiser, a noted antisemite, was an enthusiastic supporter of Herzl's *Judenstaat*. "I am all in favour of the 'kikes' going to Palestine," he wrote, "The sooner they take off the better."

Antisemitism runs through the writings of all the founding fathers of Zionism.

Ben Gurion, for example, called holocaust survivors and Mizrahi Jews like my wife 'human debris' and referred to diaspora Jews like me as 'rootless cosmopolitans'; Jabotinsky attacked the diaspora Jew as 'the Yid, ugly, sickly and lacking decorum'; Herzl, whose first solution to antisemitism in Austria was to have all the Jews convert to Christianity, described the 'mauschel' (a derogatory German term for 'Jew' equivalent to 'kike') as

'crooked, sleazy, a hideous distortion of the human character'. All of them hated and despised Yiddish, the mother tongue of millions of Ashkenazi Jews, including my father.

Although I find their writings objectionable, I would not want them suppressed. On the contrary, they should be shared and freely discussed.