

The General Secretary
Labour Party Head Office

Date: 22 August 2023

Dear Sir / Madam

1. We write on behalf of Jewish Voice for Labour (“**JVL**”) and a number of its members to express their serious concern regarding the Labour Party’s (“**the Party’s**”) conduct.
2. For the reasons set out below, we invite you to acknowledge that the Party is in breach of the Equality Act 2010 by discriminating unlawfully against its Jewish members and unlawfully harassing them in (a) the manner in which it investigates complaints made against them and (b) its failure to investigate complaints made by them.
3. We enclose, with this correspondence, the following:
 - a. Annex A: comprising of statements from a number of Jewish members of JVL describing the disciplinary action taken against them which is experienced as harassment on the grounds of their being Jewish. In addition there are testimonies to the late Riva Joffe and the late Michael Howard from Andrew Feinstein and Mrs Dee Howard respectively. The underlying material in relation to each statement is available upon request.
 - b. Annex B: comprising a statistical analysis prepared by JVL, with expert input, on the disproportionately larger number of Jews than non-Jews who have been subject to disciplinary investigation and to expulsion or auto-exclusion.
 - c. Annex C: comprising details of appeals made by Jewish members against punitive sanctions.
 - d. Annex D: comprising details of the Party’s response to complaints of antisemitism made by Jewish members.
4. The breaches to which we draw attention are of three kinds:
 - a. A number of Jewish members have had disciplinary action taken against them in a manner which is indirectly discriminatory and amounts to harassment. Jewish members of the Party are 6 times more likely to be investigated and 9.5

times more likely to be expelled from the Labour Party for antisemitism than non-Jewish members, for speech which is not antisemitic but merely a legitimate expression of views criticising Israel or for commentary on the Party's handling of and statements on allegations of antisemitism (see Annex B).¹ The disciplinary process fails to consider the Jewish identity of those investigated as a relevant matter which puts their statements in context. In some cases, this leads to an entirely different understanding of the relevant statement, as in the case of Ms Naomi Wimborne-Idrissi (see Annex A). Accordingly, the disciplinary process is a provision, criterion or practice which puts Jewish members of the Party at a particular disadvantage in comparison with non-Jewish members in a manner which cannot be justified, and has the effect of creating a hostile environment for Jewish members.

- b. Jewish JVL members often face harassment from non-Jewish members of the Party for being the 'wrong type of Jew'; they are attacked for expressing criticism of Israel or giving their views as to the definition of antisemitism and its prevalence in the Labour Party, in a manner not faced by non-Jewish members expressing the same views: see for example the treatment [REDACTED] in Annex D. Their expertise and experience is ignored. This is plainly related to their Jewish identity.
- c. The Party has failed to explain its actions against Jewish members in response to representations made and to appeals against disciplinary measures: see Annexes A and C. In particular, the Party has subjected Jewish members to harassment by systemically failing to investigate and action individual complaints in relation to such treatment. We draw your attention to Annexes A and D, and in particular the statement from Diana Neslen. Note that we have also previously made a complaint on behalf of Mrs Neslen against the Labour Party "on the basis that [the Party] have engaged in ongoing discrimination, harassment and bullying against our client in breach of the Party's own policies as well as the Equality Act 2010".

5. We deal with each of the above breaches in turn below.

First breach: discrimination and harassment in relation to the connection Jews have with the Israeli state and the holding of anti and non-Zionist views

- 6. The Party has developed a practice of investigating complaints against Jewish members in respect of their views on Israel's policies and practices in relation to Palestine and Palestinians. In doing so, it has failed to recognise that Jewish members are, unlike non-Jewish members, entitled to Israeli citizenship (See Law of Return 1950 as subsequently amended) and have a special interest in expressing such views, favourable or otherwise.

¹ The complaints data involving Jewish Labour members are those voluntarily notified to JVL staff; for JVL members this will be fairly complete but for others is probably a significant under-estimate. The ratios for JVL members are 38 x and 53 x respectively.

7. JVL is also concerned about the Party's restriction of the right of all members, to be able to discuss issues such as Zionism, Israel, and advocacy campaigns for and against Israeli policies freely. Such restriction is contra to the Party's own rules. Paragraph 7 of the NEC Code of Conduct in the Complaint Handling Handbook states in respect of criticism of the State of Israel:

In general terms, the expression of even contentious views in this area will not be treated as antisemitism unless accompanied by specific antisemitic content (such as the use of antisemitic tropes) or by other evidence of antisemitic intent. In short, the Party will encourage considered respectful debate on these difficult topics, but will not tolerate name-calling and abuse.

8. Paragraph 13 states:

...discussion of the circumstances of the foundation of the Israeli State (for example, in the context of its impact on the Palestinian people) forms a legitimate part of modern political discourse. So does discussion of – including critical comment on – differential impact of Israeli laws or policies on different people within its population or that of neighbouring territories. It is not racist to assess the conduct of Israel – or indeed of any other particular State or government – against the requirements of international law or the standards of behaviour expected of democratic States (bearing in mind that these requirements and standards may themselves be contentious).

9. In practice, however, the Party has regarded criticism of Israel, as well as criticism of organisations that actively defend Israel, as incompatible with Party membership or as a disciplinary offence. This is shown by the investigations of Andrew Feinstein² and Richard Kuper³, both Jewish, on charges of 'conduct prejudicial and/or grossly detrimental to the Party'.
10. Andrew Feinstein's case is noted in Annex A. However, in summary, on 17 November 2021, the Party informed Mr Feinstein that he was under investigation *inter alia* because he had once characterised Israel as "*a brutal, rogue, apartheid state just like my home, South Africa was*". Leading Israeli and other international human rights organisations have argued that Israel operates an apartheid system. But even if Mr Feinstein's comments had been controversial, rather than commonplace among informed observers of the Israel-Palestine conflict, the NEC Code of Conduct specifically protects '*contentious views in this area*' provided they are not accompanied by '*antisemitic content*' or '*other evidence of antisemitic intent*' – neither of which was evidenced or alleged by the Party in respect of Mr Feinstein's comment. Mr Feinstein sent the Party a comprehensive response to its draft charges in December 2021. Nearly two years later, he is yet to hear back.

² Mr Feinstein is Jewish, the son of a Holocaust survivor, a prominent human rights campaigner, and a former elected MP for the African National Congress under Nelson Mandela.

³ Richard Kuper was born into the tightly-knit Jewish Litvak community in South Africa. His paternal grandfather was a President of the Federation of Synagogues. He had an orthodox bar mitzvah which confirmed him in his atheism. He came to political awareness in the Zionist movement but found the way Israelis talked about Arabs too similar to racism in apartheid South Africa. Moving to Britain in the early sixties his Zionism became increasingly incompatible with his commitment to equality and he was the co-founder of Jews for Justice for Palestinians in 2002.

11. With regards to Mr Kuper, on 5 November 2021, the Party informed him that he was under investigation because he had written that *'accusations of antisemitism have been used as a weapon against leftwing forces in the Party, spurred on by such organisations as Jewish Labour Movement and Labour Friends of Israel, an organisation linked to Israeli officials who spent serious money lobbying – and according to some, bribing – British MPs'*. This was presented by the Party as evidence, inter alia, of *'antisemitic actions, stereotypes and sentiments'* and/or of *'mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as [a] collective'*. Mr Kuper made specific claims in respect of specific political advocacy organisations. He did not make any 'allegation' – whether 'stereotypical' or otherwise – in respect of 'Jews as such' or 'Jews as [a] collective'. The Party did not attempt to argue otherwise or to present evidence that Mr Kuper's statement had been accompanied by 'antisemitic content' or 'other evidence of antisemitic intent'. This would indeed have been a difficult case to sustain. The Party also quoted Mr Kuper's statements from the same article, that antisemitism *'is totally unacceptable and action needed against any who express it in word or deed'*. Despite the absence of any evidence of antisemitic content or intent, the Party informed Mr Kuper on 22 March 2022 that his *'conduct contravened the provisions of the Code of Conduct: Antisemitism and other forms of racism'* and issued him with a Reminder of Conduct.
12. The Party's treatment of Mr Feinstein and Mr Kuper demonstrates that it has applied the practice of regarding criticism of Israel and of organisations that actively defend Israel as incompatible with Party membership or as a disciplinary offence. This particularly disadvantages Jewish members who, because of their particular link to Israel and to antisemitism, are protected by the Equality Act 2010. Accordingly, the Party's disciplinary process cannot be objectively justified, because it results in the stifling of legitimate expression.
13. Further, anti-Zionism is itself a protected belief and where the Party has investigated or suspended members for the legitimate expression of that belief (as in the case of Mrs Neslen), this constitutes direct discrimination.

Second breach: discrimination and harassment in relation to views as to the definition of antisemitism, and failure to take into account Jewish identity

14. A large number of Jewish members have been disciplined for asserting their views on the Party's handling of allegations of antisemitism; in doing so, they are allegedly 'undermining the Party's ability to campaign against racism'. However, the result of this is that the Party is stifling legitimate views pertaining to the scope of antisemitism versus legitimate speech.
15. This questioning by members is in itself inextricably linked to the common belief among Jews that they have the responsibility and right to discuss Israel freely. We draw your attention to the case of Ms Wimborne-Idrissi, set out in Annex A. She made the following statement during a meeting: *"This is a dangerous road. Do we really want us*

Jewish members to be seen as gatekeepers – as people who prevent others from discussing issues of importance?” However, the Party misquoted Ms Wimborne-Idrissi in its allegations against her: *“At this meeting it is further alleged that you made the following statement: “Jews shouldn’t be the gate keepers for what can and can’t be discussed in meetings.”* Ms Wimborne-Idrissi argued, through her legal representatives, that the misquotation sought to erase her Jewish identity. However, the Party then found that Ms Wimborne-Idrissi had engaged in ‘conduct that may reasonably be seen to demonstrate hostility or prejudice based on race, religion or belief.’

16. In other such cases, members have been accused of antisemitism because they have criticised Zionism or Israel. Depending on the wording, JVL members have argued that such accusations are false; there is no intrinsic conflation of criticism of Zionism and Israel with antisemitism.
17. The above stems from the Party’s failure to understand the diversity of opinion among British Jews including as to as to what speech is antisemitic or should be prohibited, and the significant differences of views on Zionism which have long been a feature of Jewish history. This has manifested in the Party engaging solely with Zionist organisations, rather than consulting representative members of the Jewish community as to their differing views on what constitutes antisemitism.
18. Specifically, this is reflected in the choices that the Party has made in appointing members to the advisory board on antisemitism. JVL made clear to the Equality and Human Rights Commission (“EHRC”) its view that representation on the Advisory Board was determined in an opaque manner that seemed lacking in impartiality. Significant in this regard was the fact that the Party rejected the nomination, by a Labour MP, of three prominent community figures with specific expertise in the area of antisemitism: Dr Brian Klug, Antony Lerman and Rabbi Danny Rich. The Party gave no explanation for its action.
19. This is also reflected in the Party’s approach of requiring members to undertake ‘antisemitism training’ as a penalty for breaches of the membership rules. It should be noted that this training was much criticised in the Forde report for its failure to take into account views other than those of the Zionist organisation Jewish Labour Movement (“JLM”). We draw your attention, in this regard, to the statement of George Wilmers in Annex A. Dr Wilmers was suspended when he failed to attend training: *“because a panel of the National Executive Committee found that you had engaged in conduct that might reasonably be seen to demonstrate hostility or prejudice based on the protected characteristic of being Jewish.”*
20. Charges against Dr Wilmers and Professor Jonathan Rosenhead, related to their lawful right to express their views on matters of particular concern to Jewish people (see Annex A). Professor Rosenhead has also been told that he must attend antisemitism training and has publicly asserted this as unacceptable. Another Jewish member, Mrs Sands, was under investigation but resigned when told her suspension would be lifted if she attended ‘sanctions’ training which she suspected meant training

in antisemitism. The Party never answered her query about the nature of the training. Mrs Sands wrote to her local MP:

“I was a suspended Jewish Labour Party member, apparently, for anti-Semitic reasons..... I felt absolutely devastated when accused of being anti-Semitic, and wish you to petition for Sir Keir Starmer to personally apologise to me for so doing.”

21. These concerns have been previously reported by JVL in submissions to the EHRC.
22. The adverse impact of the application of this practice to Jewish members of the Party is demonstrated by the disproportionately larger number of Jews than non-Jews who have been subjected to disciplinary investigation and to expulsion or auto-exclusion (see Annex B). Apart from the figures quoted in paragraph 3(a) of Annex B, we draw your attention to the figures in Table D, which analyse the statistics for members expelled for alleged ‘support’ of a proscribed group, occurring in the majority of cases before the proscription rule was passed. Jewish Party members for whom JVL has the information are 12.8 times more likely than non-Jewish members to be so excluded. This adds to the concern about the apparent blanket refusal of appeals against these expulsions — see Annex C.

Third breach: Harassment in the failure to respond to representations by Jewish members and to investigate antisemitic abuse faced by Jewish members

23. Moreover, evidence of harassment is to be found in the Party’s delays and, in many cases, failure to act in responding to appeals and objections made by Jewish members in response to their disciplinary investigations.
24. The delay in responding to members’ representations when under investigation is evidenced in nearly all the personal statements. It is notable that the Party sets strict time limits on the respondent, whilst subsequently delaying in responding. Stephen Marks, for example, was given 14 days to respond to his Notice of Investigation (“NOI”) and then heard nothing for 17 months, following which he was expelled with no reference to any representations he had made. Mrs Pam Blakelock has never heard back from her response to her first investigation in August 2021 nor her response to her second NOI in September 2022. Instead and unprecedented in our client’s experience, a completely new charge was issued in March 2023 relating to the same evidence and ignoring the original charge and ensuing correspondence.
25. The Party’s handling of appeals is characterised by long delays (see Annex C). For example the Party never responded to the appeals lodged in March and April 2021 against the punitive suspension of the late Michael Howard, despite several reminders. As a result, he died in November that year *“with the stain of anti-Semitism on his memory.”*⁴

⁴ Excerpt taken from the statement of his wife, Dee Howard, set out in Annex A.

26. As to appeals which were rejected, there was a particularly stark rebuff to the appeal by Stephen Marks, who was expelled by the Party (see Annex A). We draw your attention to his comment that *“other signatories have not apparently been investigated by the Labour Party, and Bindmans were concerned that I was specifically targeted because of my role on the NCC (at the time of the suspension)”*. He also noted that *“There is a principle of natural justice here, the right to speak up for others subject to accusations which is relevant to all three petitions.”* After assessment by an independent law firm (the identity of which is unknown), it was determined that there were no grounds of appeal and that *“[his] correspondence will not be considered by the National Constitutional Committee and [his] membership of the Labour Party remains terminated.”*
27. Particularly marked is the Party’s failure to act on complaints made by Jewish members that they had suffered antisemitic abuse from other members or from the Party itself. In 28 out of 29 complaints (out of those known to JVL – see Annex D) there was either no response at all or a reply saying the complaint did not qualify for an investigation or any other action. The Party has ignored or unreasonably delayed in responding to such serious allegations by Jewish members.
28. Annex D sets out an example of the particular targeting of Jews with an alarmingly antisemitic tweet, [REDACTED].
29. [REDACTED]
- [REDACTED]
30. No action has been taken against [REDACTED] who is a Labour Councillor [REDACTED]. This can be contrasted with complaints made against Jewish members who are members of or hold similar views to JVL. See for example the analysis JVL made of complaints submitted to the EHRC by the JLM.⁵
31. We draw attention to the case of Stephen Solley, also set out in more detail in Annex A, who has received no response from the Party since 3 February 2020, nor withdrawal of the investigation, nor apology for his complaint against a Labour Councillor who wrote to his professional body to make allegations of antisemitism against him.

⁵ <https://www.jewishvoiceforlabour.org.uk/statement/jlm-evidence-to-ehrc-gossip-distortion-double-standards-and-presumed-guilt/>

32. Therefore JVL submits that the following factors disproportionately impact Jewish members of the Party, and contribute to the hostile environment Jewish JVL members face in the Party:

- a. The failure of the party to respond within a reasonable time or at all to representations and appeals by Jewish members challenging disciplinary action taken against them. These are detailed in Annex C.
- b. The failure of the party to respond adequately or at all to complaints by Jewish members of racially discriminatory conduct by other Party members. These are detailed in Annex D.
- c. The failure of the Party to acknowledge and take into account in its disciplinary processes the deeply offensive, hurtful and discriminatory effect of pursuing implausible complaints of antisemitism against Jewish members of the Party who themselves have suffered antisemitism and in many cases the loss of close relatives to the Holocaust. This failure is especially reprehensible because it ignores the call of the Party's own Chakrabarti Inquiry, the recommendations of which the Party has adopted, *"to demonstrate sensitivity to the minority experience"* (see page 6 of its report and Annex A). Murray Glickman was charged with engaging in conduct *"which makes mendacious, dehumanising, demonising, or stereotypical allegations about Jews as such or the power of Jews as [a] collective"*. As set out in Annex A, he responded that: *"This charge, by its wording, framed me as an outsider to the Jewish community, someone who could reasonably be considered, prima facie, as having made racist remarks about a group to which they had no connection."*

33. The Party has habitually flouted the authoritative assertion of the ECHR in *Sunday Times v. United Kingdom* (1979) in relation to Article 10 of the ECHR that freedom of expression includes *'not only the offensive, but the irritating, the contentious, the eccentric, the heretical, the unwelcome, and the provocative, provided it does not tend to promote violence. Freedom to speak only inoffensively is not worth having.'*

34. It should be noted that the EHRC has been clear on this issue:

*"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. It does not protect criticism of Israel that is antisemitic."*⁶

35. The Party has also breached its own rules on freedom of expression. We refer you to the final paragraph of Clause 2.1.12 of the Rule Book 2022:

⁶ <https://www.equalityhumanrights.com/en/inquiries-and-investigations/investigation-labour-party>

The NEC, ICB or 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.⁷

Conclusion and next steps

36. In conclusion, JVL is very concerned about the failure of the Party, in its purported changes in its investigatory processes in compliance with the requirements imposed by the EHRC, to address the unlawful treatment of Jewish Party members as identified in this letter and the deficiencies in its understanding of antisemitism and of equality law as it affects Jews.
37. While JVL's complaint relates to the practices of the Party in failing to properly implement its own Code of Conduct (which requires it to protect legitimate speech and to investigate antisemitic attacks on JVL members), we also stress that in any event, Party rules cannot override or displace the obligation of the Party to comply with equality law.
38. In the light of the above we invite you to confirm what steps you now propose to take to address these very serious matters.
39. We are of course aware of the investigation recently conducted by the EHRC into the Party and as a matter of courtesy we are sending them a copy of this letter. We submit this letter to you as a formal complaint under your new procedures and we will be inviting the EHRC to consider your response to this complaint in the light of your commitment to the EHRC requirements following its investigation.
40. JVL has no desire to involve itself or the Party in expensive legal proceedings but in the absence of a satisfactory reply, it reserves the right to pursue whatever other avenues may be available to secure compliance with the law.
41. Finally, we wish to make it clear that JVL's overriding aim is to persuade you that the practices which have led to the unlawful treatment of Jewish members need to be changed. Those practices undermine the Party's proper commitment to the elimination of antisemitism. This cannot be achieved by discriminatory disciplinary measures against Jewish members who exercise their democratic right to criticise and debate.
42. We look forward to your response.

Yours faithfully

Bindmans LLP

⁷ The Labour Party Rule Book is binding as a contract: *Evangelou v McNicol* [2016] EWCA Civ 817.