

Investigation into antisemitism in the Labour Party

—
Report
October 2020

Contents

Foreword	3
Executive summary	5
1. Introduction	16
2. The legal framework: unlawful acts	20
3. Acts of unlawful harassment which the Labour Party is responsible for	24
4. The Labour Party’s disciplinary and complaints procedures	33
5. Political interference in the handling of antisemitism complaints	42
6. Serious failings in the antisemitism complaint handling system	58
7. Application of sanctions in antisemitism complaints	76
8. Investigation of antisemitic conduct on social media	84
9. Training for antisemitism complaint handling	90
10. A failure of leadership	100
Annex 1: Unlawful act notice	102
Annex 2: Unlawful act case summaries	105
Annex 3: Legal annex	112
Annex 4: Recommendations from previous reports that are not implemented fully	117
Annex 5: The structure of the Labour Party	120
Annex 6: Terms of reference	123
Annex 7: How we carried out the investigation	126
Contacts	129

Foreword

This report is being published during a time like no other in recent memory. Politicians have been asked to show leadership to steer the country out of an unprecedented crisis, and we are being asked to put our trust in them to do so.

Trust should be at the heart of a political party's relationship with its members, and with the wider general public; yet what this investigation has shown is a clear breakdown of trust between the Labour Party, many of its members and the Jewish community.

The investigation was prompted by growing public concern about antisemitism in the Labour Party and followed official complaints received by us. Despite this concern and an internal inquiry led by Baroness Chakrabarti in 2016, our investigation found significant failings in the way the Labour Party has handled antisemitism complaints over the last four years.

We found specific examples of harassment, discrimination and political interference in our evidence, but equally of concern was a lack of leadership within the Labour Party on these issues, which is hard to reconcile with its stated commitment to a zero-tolerance approach to antisemitism.

The Labour Party must live up to this commitment and acknowledge the impact that multiple investigations and years of failing to tackle antisemitism has had on Jewish people. Rebuilding trust and confidence with its members, the Jewish community and the wider public will be crucial for the future. A transparent and independent antisemitism complaints process, which ensures that all cases of alleged discrimination, harassment or victimisation are investigated promptly, rigorously and without political interference, must sit at the heart of this.

However, tackling antisemitism isn't just about procedures. It is also about making sure that the Labour Party has a culture that clearly reflects its zero tolerance of antisemitism and indeed of all forms of discrimination.

The relationship between a political party and its existing and prospective members is critical to the effectiveness of democracy. While this investigation considered discrimination and harassment in one political party, such matters are by no means an issue for the Labour Party alone. Most political parties are considered associations under the Equality Act 2010. This means that, by law, they must not discriminate against, harass or victimise members, associates, guests, or those wanting to become members, on the basis of a number of protected characteristics, including race and religion.

But, more than that, politicians on all sides have a responsibility to set standards for our public life and to lead the way in challenging racism in all its forms. What politicians say and do matters. Their words and actions send a message about what is acceptable and what is not.

In recent times, there have been examples of behaviour that falls well below the standards we would expect, from politicians of various parties. While freedom of expression is essential to proper political debate, politicians must recognise the power of their language to sow division. The recommendations in this report provide a foundation to assist all politicians and political leaders in adhering to equality law, while still protecting freedom of expression and engaging in the robust and wide-ranging debate that is a core part of living in a democratic society.

Britain is made up of people from different communities – and with different views and perspectives – living side-by-side. It is essential that our society is based on the common values of tolerance, understanding and mutual respect – and to maintain our trust, it is essential that our politicians lead the way in consistently demonstrating those values and bringing the country together.

Caroline Waters, Interim Chair

Executive summary

Background

On 28 May 2019, we launched an investigation into the Labour Party, following serious public concern about allegations of antisemitism and a number of formal complaints made to us.

We carried out this investigation using our statutory powers contained in the Equality Act 2006.

The investigation aimed to determine whether the Labour Party committed a breach of the Equality Act 2010, related to Jewish ethnicity or Judaism, against its members, associates or guests, through the actions of its employees or agents. We also investigated the steps taken by the Party to implement the recommendations of previous reports, and whether the Party handled antisemitism complaints lawfully, efficiently and effectively.

We looked at a wide range of evidence from the Labour Party, the Jewish Labour Movement (JLM), Campaign Against Antisemitism (CAA), the Jewish Voice for Labour, a number of whistleblowers and other individuals and organisations.

We carried out in-depth analysis of a sample of 70 complaint investigation files. We selected 58 of these files out of over 220 complaints identified in different sources. The remaining 12 were put forward by the Labour Party.

After the Labour Party submitted its final evidence to us, an 850-page report titled 'The work of the Labour Party's Governance and Legal Unit in relation to antisemitism, 2014-2019' was leaked to the press on 12 April 2020. We were not informed that this report was being prepared and it remains unpublished. It was not proportionate for us to require the Labour Party to provide the evidence underlying the report.

We have considered the leaked report and taken it into account where appropriate. However, we have done so while bearing in mind that we have not seen all of the evidence on which the conclusions in the leaked report were based.

Antisemitism in the Labour Party

Our investigation has identified serious failings in leadership and an inadequate process for handling antisemitism complaints across the Labour Party, and we have identified multiple failures in the systems it uses to resolve them. We have concluded that there were unlawful acts of harassment and discrimination for which the Labour Party is responsible.

While there have been some recent improvements in how the Labour Party deals with antisemitism complaints, our analysis points to a culture within the Party which, at best, did not do enough to prevent antisemitism and, at worst, could be seen to accept it.

The issue of antisemitism within the Labour Party has been the subject of much scrutiny, most formally with three investigations in 2016, conducted by Baroness Chakrabarti, Baroness Royall and the Home Affairs Select Committee (HASC). Since then, the Party has failed to implement the recommendations made in these reports fully, or to take effective measures to stop antisemitic conduct from taking place. It is regrettable that many of the concerns we raise here were first raised in these reports over four years ago.

This reflects a culture that is at odds with the Labour Party's commitment to zero tolerance of antisemitism.¹ The Party has shown an ability to act decisively when it wants to, through the introduction of a bespoke process to deal with sexual harassment complaints. Although some improvements have been made to the process for dealing with antisemitism complaints, it is hard not to conclude that antisemitism within the Labour Party could have been tackled more effectively if the leadership had chosen to do so.

¹ This commitment has been made since 2016. Tom Watson MP, then Deputy Leader, made the commitment in April 2016. It has since been reaffirmed in 2018 by Jeremy Corbyn MP, then Leader of the Labour Party. Sir Keir Starmer MP, the Leader of the Labour Party, has stated: 'The principle of what I want to achieve is clear: if you are anti-Semitic, you cannot and should not be in the Labour Party. No ifs, no buts' (see [Evening Standard, 7 April 2020, 'Keir Starmer: I apologise to the Jewish community – rebuilding your trust starts now'](#)).

The antisemitism complaints process is an area of particular concern, especially given the focus on this in previous investigations into antisemitism. Over four years on from these investigations, we expected to see clear, publicly accessible and comprehensive policy documents to guide the complaints process, but the evidence showed that these did not exist. We found that the complaints process was not properly resourced and those responsible for it were not trained to the necessary standard.

We found evidence of a significant number of complaints relating to antisemitism that were not investigated at all; this is especially true for complaints about social media activity where the Labour Party previously adopted a policy of not investigating mere 'likes' or reposts. Where matters were investigated, the guidance on appropriate sanctions was unclear and inconsistent.

We found evidence of political interference in the handling of antisemitism complaints throughout the period of the investigation. We have concluded that this practice of political interference was unlawful. The evidence shows that staff from the Leader of the Opposition's Office (LOTO) were able to influence decisions on complaints, especially decisions on whether to suspend someone. Sometimes these decisions were made because of likely press interest rather than any clear formal criteria.

We set out our main findings and recommendations for change below. Where there have been improvements in the complaint handling process these are identified throughout the report, in particular in chapters 4, 6, 7, 8 and 9.

The Labour Party must now produce an action plan to address our findings and recommendations. The new leadership under Sir Keir Starmer has already publicly committed to implementing our recommendations in full. It must now put this into practice. The recommendations are clear, fair and achievable. They will help the Labour Party to make positive change in its policies, processes and culture, to benefit all of its members, and to rebuild trust among the Jewish community and the wider public. This must be done in a proactive and timely way. It must not be the case that these recommendations have to be made again in yet another report in the future.

Our findings

Unlawful acts

Our investigation found that the Labour Party breached the Equality Act 2010 by committing unlawful harassment through the acts of its agents in two of the complaints we investigated. These included using antisemitic tropes and suggesting that complaints of antisemitism were fake or smears.

As these people were acting as agents of the Labour Party, the Labour Party was legally responsible for their conduct.

This is by no means the full extent of the issues we identified within the files in our sample; it represents the tip of the iceberg. We also saw:

- A further 18 ‘borderline’ cases. In these cases, there was not enough evidence to conclude that the Labour Party was legally responsible for the conduct of the individual. These were people such as local councillors, local election candidates and Constituency Labour Party office holders.
- In many more files, evidence of antisemitic conduct by an ‘ordinary’ member of the Labour Party. These members did not hold any office or role, therefore the Labour Party could not be held directly responsible for their conduct under the Equality Act 2010.

In light of our position as a regulator, we only made findings of unlawful conduct in cases that were sufficiently clear-cut, in Equality Act 2010 and Human Rights Act 1998 terms. We explain this in Chapter 3.

If the Labour Party really is committed to building a culture of zero tolerance towards antisemitism, then it must make it clear that antisemitic conduct by members will not be tolerated. It should also deal with such conduct by its members effectively whenever it does occur, regardless of whether it is legally responsible for it.

As we explain below, we also found that the Labour Party breached the Equality Act 2010 by acts of indirect discrimination relating to political interference and a lack of adequate training.

Political interference

Throughout the period we investigated, there was political interference in the handling of antisemitism complaints – as part of a wider practice of LOTO involvement in disciplinary cases that were deemed ‘politically sensitive’, as well as a distinct practice in March–April 2018, when all antisemitism cases were referred to LOTO. Within the sample of 70 complaint files, we found 23 instances of political interference by LOTO staff and others. These included clear examples of interference at various stages throughout the complaint handling process, including in decisions on whether to investigate and whether to suspend.

We found that this political interference was not part of the Labour Party’s formal complaints process, so it was not a legitimate approach to determining complaints.

We concluded that this was indirectly discriminatory and unlawful, and that the Labour Party was legally responsible for it.

This practice has created a lack of transparency and consistency in the complaints process and a serious risk of actual or perceived discriminatory treatment in particular complaints. It has also fundamentally undermined public confidence in the complaints process.

Complaints process

An effective and transparent complaints process is critical to building trust with members and the general public, yet the Labour Party’s response to antisemitism complaints has been inconsistent, poor, and lacking in transparency. This is in direct contrast to the Party’s response to sexual harassment complaints, which includes a clear policy and procedure, guidance to complainants about what sexual harassment is, access to an independent specialist advice service and a dedicated portal for making a complaint.

We found:

- no clear, publicly accessible and comprehensive policy or procedure to explain how antisemitism complaints are determined
- an unclear, inconsistent and inadequate policy and practice for updating complainants in antisemitism complaints and notifying them of the outcome of their complaint
- inconsistent application of administrative suspensions
- a lack of a clear and fair process for respondents

- no clear guidance for the National Executive Committee (NEC) and National Constitutional Committee (NCC) on how to determine complaints
- unclear decision-making by the NEC and NCC
- inappropriate use of informal communications in the complaints process
- inaction and delay on many complaints, and
- poor record-keeping: this was evident in 62 of the 70 files in our sample.

Sanctions

In cases where a complaint of antisemitism was upheld, it has been difficult to draw conclusions on whether the sanctions applied were fair and consistent. This is at least in part due to the failings identified in the complaints process, including the failure to publish a clear policy on how antisemitic conduct is sanctioned, the failure to provide adequate reasons for decisions, and poor record-keeping.

While the Party has recently introduced reforms, which improve the ability of NEC and NCC panels to decide cases and to expel members promptly when appropriate, problems remain. In particular, there is:

- no clear, publicly accessible guidance for members on how antisemitic conduct is sanctioned
- no clear guidance for decision-makers on how to decide on the appropriate sanction
- a continuing failure to provide adequate reasons for sanctions, and
- poor record-keeping, implementation and monitoring of sanctions.

We remain concerned that the current process does not ensure fair and transparent sanctioning of antisemitism complaints, and fails to implement the recommendations of previous reports.

Training and resource for antisemitism complaints

Previous reports on antisemitism in the Labour Party recommended that it should invest in training for those involved in the complaint handling process.

Despite the Party's acknowledgment of the need for it, there was a failure to deliver adequate training to individuals responsible for handling antisemitism complaints. The approach to training for antisemitism is in stark contrast to the training provided for those handling sexual harassment complaints, for whom the Labour Party has implemented a comprehensive training scheme. This failure to provide adequate training to those handling antisemitism complaints contributes to a lack of trust and confidence in the complaint handling system. We find that this failure indirectly discriminated against Jewish Labour Party members.

From September 2019, the Labour Party has provided an educational course about antisemitism to those involved in handling and deciding antisemitism complaints, but there has been a continuing failure to provide them with adequate practical training.

We do not make a finding that this is currently unlawful. This is because of the Labour Party's formal commitment in its representations to the investigation in August 2020, to provide proper training for those handling antisemitism complaints, which is acceptable to Jewish community stakeholders. We recognise that it cannot practically do so before publication of this report, which means that there is currently a justification for its failure to provide practical training. However, we expect the Labour Party to have practical training in place within six months of publication of this report.

We also found that the resourcing of the complaints process was inadequate. This theme was identified in the Chakrabarti and Royall reports. The Royall report recommended that 'the national complaints procedure should be properly resourced so that [the Labour Party] can deal effectively with complaints of antisemitism', as well as the appointment of general counsel or other staff lawyers, and expert staff who are trained and equipped to work on matters of discipline.

Despite these clear recommendations, the Labour Party did not take action to implement these changes until 2018.

While there have been recent steps to better resource the complaint handling process, progress has been slow and more remains to be done.

Social media policy

Social media was the source of most complaints of antisemitic behaviour: of the 70 complaints that we investigated, 59 concerned social media. This shows how vital it is that this form of antisemitic behaviour is tackled.

The Labour Party had a policy, albeit one that was applied inconsistently, of not investigating complaints about likes or shares of antisemitic content on social media, if the person complained about had liked or shared content without commenting on it, regardless of the specific context. This was at clear odds with the Labour Party's commitment to zero tolerance of antisemitism. It meant that repeated sharing of antisemitic material could have escaped investigation, even where it could have amounted to a breach of the Party's conduct rule or unlawful harassment or discrimination.

The Labour Party has now acknowledged that its policy was wrong and told us that it has not been applied since mid-2018. It has also confirmed that it has reopened some complaints relating to social media, which were not investigated under the policy, and that it now takes a more proactive approach to investigating social media complaints. We consider this to be essential.

Our recommendations for change

We make the following recommendations to avoid repetition or continuation of the unlawful acts we found. We expect to see these recommendations implemented by the Labour Party in an action plan. Some of the recommendations are targeted at one or more of the unlawful acts that we have found, and aim to prevent continuation and / or repetition of those acts. However, we also believe that significant changes to the culture and processes of the Party are needed, and should be implemented to avoid repetition of the unlawful acts. Recommendations to that effect are also made below.

Living up to a zero-tolerance commitment

The Labour Party must live up to its commitment to be a political party with zero tolerance of antisemitism. To do this the Labour Party should:

- Continue to build on its new leadership's statement regarding its failure to deal with antisemitism, and acknowledge its responsibility for not living up to its commitment to zero tolerance of antisemitism.
- Engage with Jewish stakeholders to develop and embed clear, accessible and robust principles and practices to tackle antisemitism and to instil confidence for the future.
- Make sure that it has a system and culture that encourages members to challenge inappropriate behaviour and to report antisemitism complaints.

Rebuilding trust and confidence in antisemitism complaint handling

The Labour Party must rebuild trust and confidence that antisemitism complaints are handled independently, lawfully, efficiently and effectively. To do this the Labour Party should:

- In line with its commitment, and as soon as rule changes allow, commission an independent process to handle and determine antisemitism complaints. This should last until trust and confidence in the process is fully restored and should ensure that independent oversight and auditing are permanently embedded in the new process.
- Acknowledge, through its leadership, the effect that political interference has had on the handling of antisemitism complaints, and implement clear rules and guidance that prohibit and sanction political interference in the complaints process.
- Publish a comprehensive policy and procedure, setting out how antisemitism complaints will be handled and how decisions on them will be made. This should include published criteria on what conduct will be subject to investigation and suspension, and what will be considered an appropriate sanction for different types of proven antisemitic conduct.
- Develop and implement comprehensive internal guidance for all stages of the antisemitism complaints process on:
 - decision-making criteria
 - robust record-keeping, including recording reasons for decisions
 - timescales, and
 - communication, including regular communication with complainants and clear rules regulating the use of informal methods of communication in the complaints process.
- Review and update the ‘Code of Conduct: Social Media Policy’ to make it clear that members may be investigated and subject to disciplinary action if they share or like any antisemitic social media content.
- Make sure that NCC panels are routinely assisted by an external lawyer in the same way that NEC antisemitism panels are.
- Take steps to increase transparency in the disciplinary process, as highlighted by the HASC report, by reporting regularly on the reasons for the final outcome decisions in antisemitism complaints, taking account of legal requirements to publish anonymised information where appropriate.

- In line with the recommendation of the Royall report, make sure the complaint handling process is resourced properly so that it can deal with antisemitism complaints effectively and without delay.

Education and training

The Labour Party should take the following steps relating to education and training:

- Commission and provide education and practical training for all individuals involved in the antisemitism complaints process. This should be implemented fully within six months of publication of this report and, from that date, should be mandatory before any individual is allowed to be involved in any stage of the antisemitism complaints process.
- Make sure that all members found to have engaged in antisemitic conduct (apart from those who are expelled) undertake an educational course on identifying and tackling antisemitism, regardless of the level of sanction applied.
- Roll out a programme of education and training on identifying and tackling antisemitism, for all staff, Party officials, and other members in positions of responsibility within the Party. We note the Leader of the Labour Party's statement about his ambition to roll out training to all Party staff as soon as possible.
- Develop all education and training programmes on antisemitism in consultation with Jewish stakeholders.

Monitor and evaluate improvements to the process to ensure lasting change

To evaluate the effectiveness of improvements to the antisemitism complaints process, the Labour Party should:

- Collect, analyse, and publish quarterly data that enables a comparison between the handling of antisemitism complaints and other types of complaint. This should include the number of complaints, the outcome, what body made the decision (the Governance and Legal Unit, the NEC or the NCC), the sanctions applied, the time taken for completion, and how many complaints remain outstanding.
- Audit its complaint handling processes on a regular basis, including response time and consistency of outcomes, including sanctions, and make changes to address any issues identified.

- Measure staff and stakeholder confidence in the complaint handling process and respond appropriately to the feedback.
- Put in place long-term arrangements for independent oversight of the complaint handling process, to make sure that standards are monitored and enforced and adequate resources are in place.

Next steps

Our investigation found that the Labour Party has committed unlawful acts. We have therefore served an unlawful act notice on the Party. A copy of this notice is in Annex 1.

The Labour Party is now legally obliged to draft an action plan by Thursday 10 December 2020 to tackle the unlawful act findings that we have made in this report. The action plan should be based on our recommendations to avoid such acts from happening again.

The action plan set out by the Labour Party has to be agreed with us. We will make sure that the action plan includes specific timescales and success measures to achieve compliance with our recommendations. Once it is agreed, we will continue to monitor it. If the Labour Party fails to live up to its commitments in the legally binding action plan, then we may take enforcement action.

[Visit our website for more information about our legal powers.](#)

1. Introduction

Under the Equality Act 2010, the Labour Party must not discriminate against, harass or victimise its members, associates, guests, or those wanting to become members, on the basis of a number of protected characteristics, including race and religion (although religion does not apply to harassment in this context).

This duty applies to all political parties, across England, Scotland and Wales, that have more than 25 members and regulate their admission to membership by rules and a selection process.

The relationship between a political party and its existing and prospective members is crucial to the effectiveness of democracy.

Leaders and representatives of political parties should uphold and defend their right to speak freely, but they also have a responsibility to conduct debate responsibly, and to lead others in doing so. They should create an environment where discrimination, harassment and victimisation is not tolerated, so that all party members feel valued and respected regardless of their race or religion.

Background to this investigation

This investigation was prompted by complaints made to us by Campaign Against Antisemitism (CAA) and the Jewish Labour Movement (JLM) in the summer and autumn of 2018.

These complaints provided evidence of acts of antisemitism in the Labour Party, and of the Party's handling of antisemitism complaints. The documents they provided to us included information about more than 220 allegations of antisemitism within the Labour Party, dating back to 2011. Complaints focused mainly on the use of social media by members, but also included political discourse in the mainstream media and behaviour at events and meetings.

The JLM's and CAA's concerns were not isolated. Public concern around the Labour Party's handling of antisemitism had grown since 2015.

The Labour Party commissioned two inquiries into antisemitism in 2016: an overarching [inquiry by Baroness Shami Chakrabarti](#) and a specific [inquiry into allegations of antisemitism at Oxford University Labour Club by Baroness Jan Royall](#).

Also in 2016, the Home Affairs Select Committee (HASC) reported on its inquiry into antisemitism in the UK, following an increase in prejudice and violence against Jewish communities.² Although it was not directly about the Labour Party, [the HASC report, 'Antisemitism in the UK' \(2016\)](#), focused on the Party as a recent source of allegations of antisemitism in political parties.

Despite these three reports, concerns about antisemitism in the Labour Party continued.

On becoming the Labour Party's General Secretary in April 2018, Jennie Formby declared tackling antisemitism a priority. However, over 20 elected representatives (including MPs, peers and councillors) resigned from the Party in 2018 and 2019, citing a failure to tackle antisemitism in their reasons.

We met with the Labour Party to discuss our concerns, and considered the representations it made, before we decided to launch this investigation.

Scope of the investigation

On 28 May 2019, we launched an investigation into whether the Labour Party has committed a breach of the Equality Act 2010, related to Jewish ethnicity or Judaism, against its members, associates or guests, through its employees or agents.

² Across the UK, there has been an increase in the number of antisemitic incidents recorded in each of the last four years. The Community Security Trust has been collecting this information since 1984. In 2015, 960 incidents were recorded; this rose to 1,375 in 2016, 1,420 in 2017, 1,690 in 2018 and 1,805 in 2019. Between 2000 and 2014, the annual total of incidents had exceeded 700 only in 2009 and 2014, so there has been a marked increase in recorded cases over the past few years. See [Community Security Trust, 'Antisemitic Incidents Report 2019'](#), p. 38 and [Community Security Trust, 'Antisemitic Incidents Report 2010'](#), p. 35.

We considered the steps taken by the Party to implement the recommendations of previous reports. We also examined whether the Party handled antisemitism complaints lawfully, efficiently and effectively.

We explain our approach to the definition of antisemitism in Annex 3. The full terms of reference for our investigation are set out in Annex 6, and our methodology is explained in Annex 7.

Although the Labour Party said that it was keen to engage with our investigation, we encountered a number of delays in receiving information, which extended the timeframe of our investigation. At times, we were seriously concerned about the Party's commitment to working with us and to dedicating enough resources to the matter. In November 2019, we met with Jennie Formby, then General Secretary, to discuss our concerns and agree a final timeline for gathering evidence. The Labour Party complied with this timeline.

After the Labour Party submitted its final evidence to us, an 850-page report titled 'The work of the Labour Party's Governance and Legal Unit in relation to antisemitism, 2014-2019' was leaked to the press in April 2020. We were not informed that this report was being prepared.

The Labour Party did not submit the leaked report to us, and it contains evidence and information that the Party has not provided to us. This includes personal communications relating to antisemitism complaint handling, which the Party did not provide at the time we requested them.

We have considered the leaked report and taken it into account where appropriate, while bearing in mind that we have not seen all of the evidence on which the conclusions in the leaked report were based.

The scope of our investigation covers England, Scotland and Wales. However, our focus and findings relate primarily to policies and processes that are agreed and applied centrally.³

³ A constitutional amendment was made at the National Labour Party Conference in 2018 so that all antisemitism complaints must be dealt with centrally.

Our legal powers

We have a statutory power to carry out an investigation when we suspect that an organisation may have committed an unlawful act under the Equality Act 2010.

After the investigation, we must publish a report of our findings. We can include recommendations relating to any matters arising during the investigation. Our recommendations can be directed to anyone, not just the organisation under investigation.

If we make a finding that an unlawful act has been committed, we may require the organisation to prepare an action plan to avoid repetition or continuation of the unlawful act. We can enforce compliance with the action plan.

[Visit our website for more information on our legal powers.](#)

2. The legal framework: unlawful acts

Summary

This investigation examined whether the Labour Party breached the Equality Act 2010.

This chapter explains what the Equality Act 2010 says about the Labour Party's responsibilities as an association.

We also explain what discrimination and harassment mean in the Equality Act 2010.

Responsibilities of an association under the Equality Act 2010

For the purposes of the Equality Act 2010, an association is an organisation that has at least 25 members and regulates admission to membership using rules and a selection process. The Labour Party, like most political parties in Britain, is an association in this sense.

The Equality Act 2010 makes it unlawful for an association to discriminate against or victimise its members, prospective members, guests and associates, on the basis of race and religion. Discrimination can be 'direct' or 'indirect'. The Equality Act 2010 also makes it unlawful for an association to harass the same groups of people on the basis of race.

More information on the responsibilities of an association under the Equality Act 2010 can be found on [our website](#).

As set out in this report, we found unlawful acts of indirect discrimination and harassment for which the Labour Party is responsible. Based on the evidence we received we did not make a finding of victimisation. In view of our findings, this chapter focuses on explaining the legal meaning of discrimination and harassment rather than victimisation.

Our investigation focused on whether the Labour Party committed unlawful acts of discrimination or victimisation relating to race or religion, or harassment relating to race:

- **race:** meaning Jewish ethnicity
- **religion and / or belief (religion):** meaning Judaism.

Meaning of discrimination

As an association, the Labour Party must not directly or indirectly discriminate against its members or prospective members.

Direct discrimination

This means treating a person less favourably than another because of race or religion.

Example: A political party refuses to accept a person's application for membership or charges them a higher subscription rate because they are Jewish. This would be direct discrimination because of race and religion.

Indirect discrimination

This means applying a policy or practice that puts people of a certain race or religion at a particular disadvantage compared to someone who does not share their race or religion, unless:

- there is a good reason for doing so that is not discriminatory, and
- it is an appropriate and necessary way to achieve that aim.

Example: A political party holds annual internal committee elections on the first Saturday of September. It does not allow an alternative for Jewish members who observe the Sabbath who may not be able to vote in an election held on that day. This is likely to be indirect discrimination against Jewish members because of their religion or belief, unless it can be justified as appropriate and necessary for achieving a real need.

We found two indirectly discriminatory practices by the Labour Party, which we explain in chapters 5 and 9.

Meaning of harassment

In this context, harassment means unwanted conduct related to race, which has the purpose or effect of violating a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.

Example: An elected representative of a political party is verbally offensive about Jewish people during a constituency meeting. This behaviour creates an offensive environment for members. This is likely to be harassment on the grounds of race.

We found the Labour Party responsible for certain acts of harassment by its agents, which we explain in Chapter 3 and annexes 2 and 3.

Types of conduct

The types of conduct that may be directly discriminatory or amount to harassment can include written or spoken words, images, physical gestures and the use of social media (which we explain in more detail in Chapter 8 and Annex 3).

Indirect discrimination may be caused by a provision, criterion or practice. For example, a formal or informal policy, decisions, rules or arrangements.

Acts of direct discrimination, indirect discrimination and harassment are all unlawful acts under the Equality Act 2006.

Responsibility for an unlawful act

An association is responsible for prohibited conduct carried out by its employees and agents against members and prospective members.

Employee: a person who carries out work for an association under a contract of service, a contract of apprenticeship or a contract to do work personally.

Agent: someone who has authorised functions or duties on behalf of an association, but is not a worker employed by it, even if there is no formal contract between them.

The law does not define categories of agents. This depends on the association, the individual and the situation.

Example: The Labour Party is responsible for the actions of members of the Parliamentary Labour Party when they are representing the Party.

We provide more information about the people we consider the Labour Party responsible for in Annex 3.

Anything done by an employee in the course of their employment, or by an agent in their authorised functions, must be treated as if it was done by the association itself. It does not matter whether the association knew about, or approved of, what the employee or agent did.

However, an association will not be legally responsible for the act of an employee if it can show that it took all reasonable steps to prevent the employee from acting unlawfully.

It will not be legally responsible for the act of an agent if the agent acted outside the scope of their authority, doing something so different from their role that they were no longer acting on behalf of the association.

3. Acts of unlawful harassment which the Labour Party is responsible for

Content warning: this chapter contains offensive language

Summary

Our investigation found that the Labour Party breached the Equality Act 2010 by committing unlawful harassment through the acts of its agents.

Antisemitic conduct by Labour Party members is unlawful harassment under the Equality Act 2010 when:

- it is unwanted conduct related to Jewish ethnicity
- it has the purpose or effect of violating the dignity of one or more Labour Party members, or creates an intimidating, hostile, degrading, humiliating or offensive environment for them, and
- the Labour Party is responsible for it, because the person or people who carry out the antisemitic conduct are its employees acting in the course of their employment or agents acting in the course of their authorised functions (we explain this in more detail in Chapter 2 and Annex 3).

In Annex 2, we set out a detailed analysis of the cases that we find contributed to the Labour Party committing unlawful harassment through the actions of its agents.

In this chapter, we provide an overview of:

- the unlawful harassment we found in the complaint files, which the Labour Party is responsible for, and
- other antisemitic conduct within the complaint files.

Complaint sample

We examined 70 complaints of antisemitism made to the Labour Party between March 2016 and May 2019. The sample covered a range of complaints about Labour Party members in different roles, including MPs and local councillors. Our approach to examining the sample is set out in Annex 7.

Harassment by the Labour Party

We found that the Labour Party, through its agents, committed harassment against its members in relation to Jewish ethnicity in the case of two individuals, Ken Livingstone and Pam Bromley.

A detailed analysis of each of these findings is set out in Annex 2.

A significant number of the other complaints we looked at demonstrated what we considered to be antisemitic conduct. However, there was either:

- not enough evidence to show that the Labour Party was legally responsible for that conduct
- the conduct was by an ‘ordinary’ member of the Labour Party, whose conduct the Party could not be legally responsible for under equality law, or
- we were not satisfied that evidence of the harmful effect of the conduct was enough to outweigh the freedom of expression rights of the individual concerned.

Freedom of speech and the European Convention of Human Rights

Articles 10 and 11 of the European Convention of Human Rights (ECHR) protect freedom of expression and freedom of association. The Human Rights Act 1998 brought the ECHR directly into UK law.

Where possible, the Equality Act 2010 must be read and applied in a way that is compatible with ECHR rights. Further, as a public authority, the Equality and Human Rights Commission must act in a way that is compatible with these rights.

Articles 10 and 11 are particularly relevant when considering whether conduct should be regarded as harassment, as conduct which has the effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

The Equality and Human Rights Commission should not regard conduct as harassment, and take action on it, where this would breach the Article 10 or 11 rights of the individual whose conduct is in issue, or of an organisation that is responsible for their actions.

However, the ECHR does not protect racist speech that negates its fundamental values. The European Court of Human Rights has held that speech that is incompatible with the values guaranteed by the ECHR, notably tolerance, social peace and non-discrimination, is removed from the protection of Article 10 because of Article 17.⁴ This may include antisemitic speech and Holocaust denial.⁵

Furthermore, speech that is within the scope of the right to freedom of expression in Article 10 may still be restricted, or sanctioned, where it is proportionate to do so.⁶ In the case of harassment, conduct may be regarded as unlawful, and action taken on it, where this is proportionate to protect the rights of others not to have their dignity violated or to be exposed to an intimidating, hostile, degrading, humiliating or offensive environment.

In considering whether speech or other conduct is protected by Article 10 of the ECHR, we take into account the context in which that speech or conduct happened. Similar principles apply to Article 11. In particular:

⁴ Article 17 says: 'Nothing in [the] Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.'

⁵ On antisemitic speech, see *Ivanov v. Russia* (App. No. 35333/04) (admissibility decision, 20 February 2007); on Holocaust denial, see *Garaudy v. France* (App. No. 65831/01) (admissibility decision, 24 June 2003) and *M'Bala M'Bala v. France* (App. No. 25239/13) (admissibility decision, 20 October 2015).

⁶ It may be proportionate to do so pursuant to Article 10(2), which provides that the right to freedom of expression under Article 10 may 'since it carries with it duties and responsibilities, be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, ... for the protection of the ... rights of others'.

- Speech does not lose the protection of Article 10 just because it is offensive, provocative or would be regarded by some as insulting.
- Statements made by elected politicians have enhanced protection under Article 10.
- Relevant factors will include whether speech is intended to inform rather than offend, whether it forms part of an ongoing debate of public interest and whether it consists of alleged statements of fact, or of value judgment.

We also take into account how far the speech or conduct interferes with the rights of others, and the severity of impact of any measures that we might propose to take in respect of it.

Article 10 will protect Labour Party members who, for example, make legitimate⁷ 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.

In finding that the conduct described in this chapter and in Annex 2 was unlawful harassment, we have taken Articles 10 and 11 into account. We are satisfied that this conduct is not protected by the ECHR for the reasons we set out in Annex 2.

In Annex 3, we also set out the approach we have taken to the International Holocaust Remembrance Alliance working definition of antisemitism.

Types of antisemitic conduct that amounted to unlawful harassment

The following types of antisemitic conduct by Labour Party agents contributed to our finding of unlawful harassment by the Labour Party.

In each of the examples below, we found that the Labour Party was responsible for the conduct because the individual was acting as an agent of the Party. We explain this in more detail at the end of this chapter and in annexes 2 and 3.

⁷ Where we refer to legitimate criticism of Israel, here and elsewhere in the report, we mean criticism that is not antisemitic.

1. **Use of antisemitic tropes.** This means using written or verbal phrases or images that suggest antisemitic ideas or stereotypes. Examples that we found included referring to the idea that Jews are part of a wider conspiracy, or are responsible for controlling others and manipulating the political process, including the Labour Party. For example, referring to Jewish people being a 'fifth column'.

Example

Local Rossendale Borough councillor, Pam Bromley, posted on Facebook: 'Had Jeremy Corbyn and the Labour Party pulled up the drawbridge and nipped the bogus AS [antisemitism] accusations in the bud in the first place we would not be where we are now and the fifth column in the LP [Labour Party] would not have managed to get such a foothold ... the Lobby has miscalculated ... The witch hunt has created brand new fightback networks ... The Lobby will then melt back into its own cesspit.'

2. **Suggesting that complaints of antisemitism are fake or smears.** Labour Party agents denied antisemitism in the Party and made comments dismissing complaints as 'smears' and 'fake'. This conduct may target Jewish members as deliberately making up antisemitism complaints to undermine the Labour Party, and ignores legitimate and genuine complaints of antisemitism in the Party. These comments went beyond simply describing the agents' own personal experience of antisemitism in the Party.

Example

In media interviews in April 2016, Ken Livingstone, a Labour Party National Executive Committee (NEC) member, made reference to social media posts made by Naz Shah MP. Naz Shah's posts included a graphic suggesting that Israel should be relocated to the United States, with the comment 'problem solved', and a post in which she appeared to liken Israeli policies to those of Hitler.

Naz Shah apologised for her comments in Parliament and conceded that they caused 'upset and hurt to the Jewish Community'. Ken Livingstone repeatedly denied that these posts were antisemitic and

sought to minimise their offensive nature. In his denial, Ken Livingstone alleged that scrutiny of Naz Shah's conduct was part of a smear campaign by 'the Israel lobby' to stigmatise critics of Israel as antisemitic, and was intended to undermine and disrupt the leadership of Jeremy Corbyn MP.

We have taken into account Ken Livingstone's right to freedom of expression, which is protected by Article 10 of the ECHR. Article 10 is relevant when Labour Party members, for example, make legitimate criticism of the policies of the Israeli government, as we explain above. The comments made by Naz Shah went beyond legitimate criticism of the Israeli government, as she acknowledged, and are not protected by Article 10. Neither is Ken Livingstone's support for those comments.

Example

In April 2019, Pam Bromley posted on Facebook: 'Looks like fake accusations of AS [antisemitism] to undermine Labour just aren't working, so let's have Chris Williamson reinstated'.

On 15 December 2019, she posted on Facebook about Jeremy Corbyn: 'My major criticism of him – his failure to repel the fake accusations of antisemitism in the LP [Labour Party] – may not be repeated as the accusations may probably now magically disappear, now capitalism has got what it wanted'.

Effect of antisemitic conduct

In each of the case summaries, set out in Annex 2, we were satisfied that the antisemitic conduct had the effect of contributing to violating the dignity of a member or prospective member, or contributing to creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

We considered the perception of those affected by the conduct, the wider circumstances, and whether it was reasonable for the conduct to have the effect complained of, before making a finding of harassment.

In finding that the Labour Party committed harassment through the acts of its agents, we took account of the evidence we received that the individual acts of harassment by its agents amounted to conduct creating a hostile environment for Labour Party members.

We find that, whether viewed individually or taken together, these acts had the effect of harassing Labour Party members.

Example

Labour Party members told us that the comments by Ken Livingstone in relation to Naz Shah (referred to above) caused shock and anger among Jewish Labour Party members. They felt his comments were appalling, highly offensive and very distressing.

They said the effect of these comments was humiliating, denied the victims' experience, diminished the issue, and had the effect of stirring up and fuelling hatred for Jews.

Labour Party members also told us that Pam Bromley's conduct, including the Facebook posts above, contributed to a hostile environment in the Labour Party for Jewish and non-Jewish members.

Responsibility for antisemitic conduct

In each case that contributed to our finding of unlawful harassment by the Labour Party, the unwanted conduct was carried out by an agent of the Labour Party, respectively a prominent NEC member and a local councillor.

We explain the reasons why we found the Labour Party responsible for the conduct in Annex 2.

Some of the unwanted conduct took place on social media. Social media posts, like other forms of unwanted conduct, may be attributable to the Labour Party if they are made in the course of employment or in the course of authorised conduct by an agent, but not where they are made in a purely private capacity. We explain this further in Annex 3.

Prevalence of antisemitic conduct in the complaint sample

As we explain above, we found that the Labour Party is legally responsible for the harassment evidenced in two of the 70 complaint files.

Importantly, we identified 18 more borderline harassment cases in the sample. In these files a person had committed conduct that could amount to harassment and held a position within the Labour Party, such as a local councillor, candidate for local election or Constituency Labour Party office holder. However, in these cases there was not enough evidence to determine whether the Labour Party was legally responsible. Typically, we did not have enough evidence about the nature and context of an individual social media account at the relevant time to determine whether social media posts were made in a purely private capacity. The Labour Party was generally not able to give us that information.

In light of our position as a regulator, we only made findings of unlawful conduct in cases that were sufficiently clear-cut, in Equality Act 2010 and Human Rights Act 1998 terms (see the section on freedom of speech and the European Convention of Human Rights above). There will be many other cases where the Labour Party concluded properly, or may still conclude, that conduct is antisemitic and in breach of its conduct rule.

In many more files there was evidence of antisemitic conduct by an 'ordinary' member of the Labour Party, who did not hold any office or role, whose conduct the Party could not be directly responsible for under equality law.

The unwanted conduct complained of in this group related to social media comments that:

- diminished the scale or significance of the Holocaust
- expressed support for Hitler or the Nazis
- compared Israelis to Hitler or the Nazis
- described a 'witch hunt' in the Labour Party, or said that complaints had been manufactured by the 'Israel lobby'
- referenced conspiracies about the Rothschilds and Jewish power and control over financial or other institutions
- blamed Jewish people for the 'antisemitism crisis' in the Labour Party
- blamed Jewish people generally for actions of the state of Israel
- used 'Zio' as an antisemitic term, and
- accused British Jews of greater loyalty to Israel than Britain.

The Labour Party should deal with antisemitic conduct by its members effectively, regardless of whether it is legally responsible for it under equality law.

Conclusion

In this chapter, we have explained how the Labour Party is responsible for committing unlawful harassment against its members through its agents.

We also highlighted the range and volume of antisemitic conduct across the complaint sample.

In the next chapters, we look at whether the Labour Party has taken effective steps to deal with antisemitism complaints, and to make sure that members take responsibility for their own conduct. These steps are essential to avoid antisemitic conduct in the future.

4. The Labour Party's disciplinary and complaints procedures

Summary

The Labour Party's disciplinary and complaints procedures are not set out in one document. They are taken from a series of rules, codes and internal guidance documents.

We provide an overview of this process in this chapter.

We look at:

- the Labour Party's conduct rule, under which complaints of antisemitic conduct are considered
- the process for determining antisemitism complaints, including the disciplinary process, and
- the sanctions that may be imposed for antisemitic conduct.

These processes have changed over the period of our investigation. We explain these changes, including when improvements have been made. We identify concerns that remain about the process.

In later chapters, we explain the failings we identified in the handling of antisemitism complaints.

The Labour Party's conduct rule

Antisemitic conduct is treated as a disciplinary matter under the Labour Party's conduct rule.

This rule says that members must not engage in conduct ‘which in the opinion of the NEC [National Executive Committee] is prejudicial, or in any act which in the opinion of the NEC is grossly detrimental to the Party’.⁸

The rule also says that the NEC and National Constitutional Committee (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’.⁹

Codes of conduct

The conduct rule requires the NEC and NCC to take relevant codes of conduct into account.

The Labour Party adopted a code of conduct on antisemitism and other forms of racism in 2017, which has been incorporated in the Labour Party Rule Book. This is a short code that covers all forms of racism in four paragraphs. It does not provide any guidance on the meaning of antisemitism.

The Labour Party provided us with a second code of conduct from 2018. This refers to the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism (see Annex 3 for more details) and contains ‘guidelines’ with examples of conduct ‘likely to be regarded as antisemitic’, which are partly taken from the IHRA examples. However, this code of conduct is not in the Labour Party Rule Book or available on the Labour Party website.

The Labour Party also has a code of conduct on the use of social media. This does not refer to antisemitism, although it does refer to race and religion. It focuses on ‘abusing someone online’ and encourages reporting of ‘abusive behaviour’. We explain this code in more detail in Chapter 8.

The Labour Party says that the Governance and Legal Unit (GLU) (which is the unit within the Labour Party responsible for handling complaints), the NEC and the NCC now take into account the Chakrabarti report and the IHRA definition of antisemitism and examples.

⁸ Chapter 2, clause 1.8.

⁹ Chapter 2, clause 1.9.

We explain our concerns about the lack of clear internal or published guidance on how antisemitic conduct is assessed and dealt with in Chapter 6.

The process for determining antisemitism complaints

A complaint about antisemitic conduct by a Labour Party member will be treated as a complaint about a potential breach of the conduct rule.

Under the Party's internal system, the complaint should go through the following stages.

Stage 1: A complaint is made and recorded

A complaint can be made by an individual or organisation, or generated internally by a staff member. A complaint is made via an [online form on the Party's website](#).

The complaint should then be logged by the GLU.

Changes to stage 1 over the period of the investigation

The Labour Party accepted, in evidence to us, that before 2018 there was no consistent or reliable system for recording antisemitism complaints.

Since 2018, the Labour Party has adopted a system whereby any complaint of antisemitism should be logged. The Labour Party told us that it now seeks to comply with the Macpherson principle, that all complaints about incidents of racism should be recorded and investigated as such, when they are perceived by the complainant or someone else as acts of racism.¹⁰

¹⁰ We note that the Macpherson principle was first articulated in the Stephen Lawrence inquiry report published on 24 February 1999, more than 20 years ago, and it is surprising that the Labour Party did not adopt it before 2018.

A constitutional amendment was made at the National Labour Party Conference in 2018, so that all antisemitism complaints must be dealt with centrally by the GLU and then determined by the NEC or NCC, rather than at a local level.

Changes that affect all stages, such as record-keeping and resources, are addressed in chapters 6 and 9 respectively.

Stage 2: The GLU decides whether to open an investigation and whether to apply administrative suspension from the Party

The GLU decides whether to investigate the complaint. If it decides to investigate, it also decides whether the person complained about should be suspended while the investigatory and disciplinary process takes place (a process known as administrative suspension).

If a member is suspended while they are under investigation, they cannot stand as a candidate in any election or represent the Party in any position while the suspension is in place.

If the GLU decides not to investigate it may:

- take no action, or
- send the person complained about a Reminder of Values.

A Reminder of Values may be given where a member has engaged in conduct that does not breach the conduct rule but still warrants a reminder of the Party's values.

Changes to stage 2 over the period of the investigation

Some improvements have been made to this process over the period of our investigation. In September 2019, the Labour Party implemented new guidance on how to decide whether to investigate and whether to suspend. This includes guidance on investigating potentially antisemitic conduct on social media, including through proactively searching for keywords. It also gives more detail on how to make suspension decisions.

Since September 2019, decisions on whether to investigate have to be signed off by two of four senior staff in the GLU; all suspensions must be signed off by the Director of Governance and Legal (DGL). It does not appear that there was such a clear process in place before September 2019.

Stage 3: The GLU investigates and reports to the NEC

If the GLU decides to open an investigation, it then investigates and prepares a report for the NEC with a recommendation on how the complaint should be determined.

The recommendation can be for:

- no further action
- action by the NEC, or
- referral to the NCC.

The recommendation will depend on whether the GLU considers the respondent to have breached the Labour Party's conduct rule and, if so, on the severity of any breach.

Changes to stage 3 over the period of the investigation

Since January 2019, the GLU must report all investigations of antisemitism to the NEC, including complaints where no further action is recommended. Before January 2019, the GLU could close a complaint following investigation if it concluded that no further action should be taken or that the complaint could be dealt with by a Reminder of Values or formal warning.

In July 2018, the NEC Antisemitism Working Group recommended that GLU reports in antisemitism cases should be anonymised. This was finally implemented in early 2020. It is important to help ensure that decision-making is not affected by the identity of those involved.

Stage 4: The NEC makes a decision on the complaint

The NEC receives the GLU's investigatory report. It then decides whether the alleged antisemitic behaviour breaches the conduct rule. If it does, then the NEC decides how severe the breach is and what the appropriate sanction is. The NEC decides the complaint by considering the paperwork, without conducting a hearing. We set out the available sanctions on page 40.

Alternatively, the NEC may refer serious breaches, or cases with factual disputes, to the NCC for a hearing.

Changes to stage 4 over the period of the investigation

Until August 2018, antisemitism complaints were considered by an NEC Disputes Panel, which met four times a year and which all NEC members could attend. Antisemitism complaints were therefore considered and debated by a large number of NEC members.

Several former staff members and NEC members told us this meant that the disputes panels were highly politicised, due to the inherently political and factional nature of the NEC's structure.

In August 2018, parts of the system that had been introduced for sexual harassment cases were adopted for antisemitism complaints:

- smaller panels of 3–5 NEC members now determine these complaints
- panel members are drawn from different divisions of the Labour Party, in an attempt to ensure more political balance
- the panels sit more regularly (once or twice a month) than the NEC Disputes Panel
- the panels are assisted by an external barrister experienced in discrimination law, and
- panel members should not discuss cases without the barrister present.

The Labour Party told us that the introduction of antisemitism panels has led to less political decision-making. It also told us that the barrister who advises these panels and the Head of Disputes have observed that the panels' decision-making is of a higher quality, and less prone to factional considerations than that of the plenary NEC Disputes Panel.

However, as we explain in chapters 6 and 7, there remain serious concerns about decision-making by NEC panels.

Until September 2019, only the NCC could expel a member or impose suspension as a final sanction. From September 2019, new rules allow the NEC to impose any sanction that the NCC can impose, including suspension and expulsion, if the charge relates to hostility or prejudice based on a protected characteristic and can be proven on documented evidence rather than at an oral hearing.

The Labour Party has provided examples of the NEC using its new powers to determine antisemitism complaints in as little as 20 days.

It remains the case that only the NCC can hold oral hearings, which may be necessary, for example, where there are disputes about the facts.

Stage 5: The NCC may consider the complaint

If the NEC decides to refer a complaint to the NCC, it prepares a charge sheet and evidence bundle for an NCC hearing. An NCC panel then hears the case and decides whether the charge is proven and, if so, decides on the sanction.

Changes to stage 5 over the period of the investigation

In September 2018, the rules were changed to require the NCC to determine charges within three months of receiving them (except in exceptional circumstances). At the same time, the NCC's membership was increased from 11 to 25 (before then, it had been unable to convene panels quickly enough due to a lack of available members). The Labour Party told us that these procedural changes have speeded up the process.

In May 2019, the Labour Party introduced new procedural guidelines. As a result, NCC panels can seek legal advice from the Party's lawyer at any time during a hearing, although the Labour Party told us that this only tends to happen in cases with a 'high risk of challenge'. Respondents are encouraged to seek lay, rather than legal, representation.

We consider it unfortunate that independent legal advice is not provided routinely to NCC panels, when it is to NEC panels, and when by definition the NCC is hearing the most controversial or serious cases.

The NCC now also has the function of hearing, and deciding the outcome of, appeals against NEC panel decisions to suspend or expel. Such appeals can only be made on procedural grounds.

The NCC has been required to give reasons for its decisions since 2018.

Stage 6: The complainant may be notified about the outcome of the complaint

The complainant may be notified about the outcome of their complaint. The Labour Party does not require all complainants to be notified. We discuss this further in Chapter 6.

Sanctions that may be imposed for antisemitic conduct

If an NEC or NCC panel finds that a member has not breached the conduct rule, it will issue a notice of no further action or a Reminder of Values.

If it finds a breach of the conduct rule, it will impose one of the following sanctions:

- **Reminder of Conduct:** a warning that remains on a member's file for a default period of 12 months, which can be extended or shortened by the panel. It can be taken into account if the member engages in further misconduct during that period, or as part of any candidate selection process, but it does not stop the member from being selected.
- **Formal NEC warning:** a more severe sanction than a Reminder of Conduct. It has the same effect but it remains on a member's file for a default period of 18 months.
- **Suspension:** from membership of the Party, holding office in the Party, or being a delegate to any Party body, for a specified period or until a specified event.
- **Withholding or withdrawing endorsement as a candidate or prospective candidate at any level.**

- **Expulsion:** following which the person cannot apply for readmission to membership for at least two years. The Labour Party does not impose lifetime bans.¹¹ However, an application to rejoin can be rejected at the discretion of the General Secretary.
- **Any other reasonable and proportionate measure.**

Conclusion

The Labour Party has made improvements to its complaints and disciplinary procedures since 2016. These include introducing NEC antisemitism panels and reforming the NCC system. However:

- The Labour Party has not set out its process for responding to antisemitism complaints in a single published document.
- NCC panels are not routinely assisted by a lawyer in the way that NEC antisemitism panels are.
- Confidence in the system has been badly damaged by the political interference that we describe in Chapter 5.
- This has been compounded by serious failings in how the procedures have operated in practice, which we describe in Chapter 6.
- This has also been compounded by the inconsistent approach to sanctions and the failure to provide proper training for those involved in the complaints process, which we describe in chapters 7 and 9.

We make recommendations to address these issues in the following chapters.

¹¹ This is in line with the Chakrabarti and Royall reports which recommended that lifetime bans were not proportionate.

5. Political interference in the handling of antisemitism complaints

Summary

In this chapter, we explain what we mean by political interference in antisemitism complaint handling and set out our findings on this issue.

We explain our finding that there was political interference in antisemitism complaints by staff in the Leader of the Opposition's Office (LOTO) and certain other individuals, and we give examples of this.

We explain why we consider the interference to have been inappropriate and consider the effect of this interference on the complaints process.

The chapter closes with a finding that this practice of political interference in decision-making on antisemitism complaints amounts to indirect discrimination under the Equality Act 2010.

Meaning of political interference

An effective complaints process must be fair, impartial and transparent. Decisions on complaints should be made through specified formal processes, based on a fair and objective assessment of the facts.

In our investigation we use the term 'political interference' to mean people influencing decision-making or taking decisions in complaints outside of established processes.

This sort of interference may happen because of political concerns, such as the reaction of the media or the reputational risk to the Labour Party, or for reasons relating to support for internal factions within the Party. It can lead to decisions being made for political reasons, rather than based on the facts of the case.

Issues such as reputational risk are legitimate matters for the Party's leadership to consider in handling the outcome of decisions on complaints. However, it is not appropriate for such factors to influence the decision on the complaint itself.

Political interference may be unlawful if it has a discriminatory impact on certain types of complaints or complainants.

Political interference in antisemitism complaint handling

As we explain in Chapter 4, under the Labour Party's established processes, the Governance and Legal Unit (GLU) is responsible for handling complaints up to the stage when they may be referred to the National Executive Committee (NEC).

If other people in the Labour Party are involved in complaint handling outside of this established process, it creates the risk that complaints are not, or are not perceived to be, handled in a fair, impartial and transparent way.

LOTO staff do not have a role in complaint handling under the Labour Party's published complaints processes. However, we received evidence from the Labour Party, former GLU staff and others about LOTO's role in antisemitism complaint handling.

We also conducted an in-depth review of 70 antisemitism complaint files, and material obtained from other sources on these complaints (as we describe in Annex 7). This process has given us a useful insight into how the Labour Party's antisemitism complaints system has actually operated over the last four years, including the role of LOTO staff.

We explain below our finding that there was political interference in antisemitism complaints by staff in LOTO and other individuals, and we give examples of this.

Examples of political interference in antisemitism complaints

Within the sample of 70 complaint files, we found 23 instances of political interference. This interference happened at various stages of the complaints process and sometimes more than once in a case.

Interference in decisions on whether to investigate

Under the complaints process, as we explain in Chapter 4, GLU staff should decide whether or not to investigate a complaint. LOTO staff should not have any role in these decisions.

However, we saw examples in our complaint sample where LOTO staff made or influenced this decision.

Example

A complaint was made in April 2018 regarding the alleged support of the Leader of the Opposition, Jeremy Corbyn MP, for an antisemitic mural. In an email to the GLU, LOTO staff said that the complaint should be dismissed, stating that: 'the complaint itself seems to fall well below the threshold required for investigation and if so surely the decision to dismiss it can be taken now'. LOTO staff amended and approved the GLU's written response to the complainant to include details on Jeremy Corbyn's actions in relation to the mural. LOTO staff therefore directly interfered in the decision not to investigate in this case.

Example

There is evidence of LOTO staff being directly involved in the decision to investigate the second complaint of antisemitism made against Ken Livingstone. The Labour Party confirmed to us that a decision to 'go to Disputes', that is, to the NEC Disputes Panel, which was described as having been made 'higher up', was likely to refer to the decision having been made by LOTO and the General Secretary's Office (GSO). It therefore appears that LOTO staff, and potentially GSO staff, interfered in the decision to investigate the conduct of Ken Livingstone.

Interference in decisions on whether to suspend

Under the complaints process, the GLU should decide whether or not to suspend an individual complained about, pending the investigation of their complaint. LOTO staff should not have any role in these decisions.

However, we saw an example in our complaint sample where LOTO staff were involved in the decision-making process.

Example

In July 2016, the Labour Party wrote to Ken Livingstone, confirming that administrative suspension had been imposed in relation to an antisemitism complaint ‘after conversations between the Leader of the Labour Party and his staff’. This clearly shows the involvement of the Leader, then Jeremy Corbyn, and LOTO staff in the decision to suspend Ken Livingstone.

We also saw an example of inappropriate attempted interference in a decision to suspend by an NEC Disputes Panel member:

Example

In March 2018, Christine Shawcroft (NEC Disputes Panel Chair) emailed GLU staff, other NEC members and Jennie Formby, seeking to reinstate a member suspended for antisemitic social media posts so that they could stand as a candidate in local elections. The NEC had no authority to be involved in administrative suspension decisions by the GLU at that time. It was particularly inappropriate for the Chair of the NEC Disputes Panel – who would have been responsible for making sure that the complaint was determined fairly – to seek to interfere by advancing the position of the member under investigation. Christine Shawcroft subsequently resigned as Chair of the NEC Disputes Panel and later from the NEC itself.

Interference in NEC and NCC panel hearings

As we explain in Chapter 4, the GLU is responsible for referring complaints to the NEC for a decision. The NEC then decides, in appropriate cases, whether to refer the complaint to the NCC.

We have seen evidence of LOTO staff’s involvement in the timing of an NEC hearing.

Example

Following investigation into a second antisemitism complaint about Ken Livingstone, notes of a meeting record a LOTO staff member referring to the timing of the GLU's investigation being reported to the NEC in March 2018 as: 'V difficult timing—lots of politics. Discuss with [initials removed] about tabling it later. Need to discuss in LOTO over timing'.

Furthermore, in the following example, the High Court found that the substantive approach of the NEC had been influenced by external events.

Example

On 26 June 2019, the NEC decided that Chris Williamson had engaged in misconduct in respect of antisemitism, and that he should receive a formal NEC warning (thus lifting his administrative suspension) rather than be referred to the NCC for disciplinary proceedings. The NEC decision was leaked to the press and prompted an outcry from Campaign Against Antisemitism, the Board of Deputies of British Jews and Labour MPs and peers.

The following day, one of the NEC panel members, Keith Vaz MP, called and emailed Jennie Formby saying that, for a range of reasons, including his own health, the decision from the previous day 'cannot stand'. The Labour Party reopened the complaint to be heard before another NEC panel. On 19 July 2019, the new panel decided to refer Chris Williamson to the NCC.

Chris Williamson successfully challenged the decision to reopen the complaint in the High Court. The court found that:

'it is not ... difficult to infer that the true reason for the decision in this case was that members were influenced by the ferocity of the outcry following the June decision ... 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. Internal and press reaction to a decision are not of themselves proper grounds for

reopening a case that was not otherwise procedurally unfair or obviously wrong.’¹²

The Labour Party’s evidence about LOTO’s role in antisemitism complaint handling

As we have explained above, LOTO staff do not have a role in complaint handling under the Labour Party’s published complaints processes. However, the Labour Party told us that LOTO staff were involved in the handling of certain ‘politically sensitive’ antisemitism complaints.

In its evidence to the investigation, the Labour Party told us that LOTO staff must be involved in cases relating to MPs or NEC members because ‘it is a constitutional necessity for the leaders of political parties to be involved in the management of their members of parliament’.

It also said that LOTO staff must be informed of other cases involving high reputational risk to the Party. It referred to the roles and responsibility of the Leader to ‘uphold and enforce the constitution, rules and standing orders of the Party and ensure the maintenance and development of an effective political Labour Party in parliament and in the country’.

In its representations to us, the Labour Party clarified its position. It accepted that the leadership must have no role in determining disciplinary outcomes. It clarified that the Leader’s duty to ‘uphold and enforce the constitution [and] rules ... of the Party’ means that ‘the Leader is entitled to involve himself with the disciplinary procedure generally, to ensure it adequately upholds the values of the party, and is effective in its operation’.

It also referred to the importance of the Labour Party’s right to freedom of association, its right to manage its own internal affairs in line with its rules, and to decide who should have membership rights.

¹² Williamson v Formby [2019] EWHC 2639 (QB).

The Party is now developing a governance protocol:

so that the parameters of leadership involvement are well understood and appropriate. Those parameters will be directed at ensuring that the Leader is not involved in deciding the outcome of any complaints.

Wider evidence relating to political interference

Several former GLU staff gave evidence that the leadership of the Labour Party had sought to gain political control of antisemitism complaints by ‘installing’ Thomas Gardiner in the GLU.

Thomas Gardiner was an adviser to the Labour Party’s Chair. He was seconded into the General Secretary’s Office (GSO) in April 2018, but not permanently appointed to a formal role in the GLU until June 2018 when he became acting Director of Governance and Legal (DGL).

The GLU is the independent unit that handles complaints within the Party. In light of the evidence we received, we considered whether Thomas Gardiner’s role at this time led to potential interference from outside the GLU in the handling of complaints, or the appearance that this was happening. Such factors could undermine confidence in the complaint handling process and, in particular, its independence.

One former GLU staff member described Thomas Gardiner as LOTO’s ‘trusted person’ in the GLU. Witnesses suggested that he acted as the ‘gatekeeper’ on antisemitism complaints. They said he would liaise with LOTO staff to make decisions on complaints, which rendered GLU staff ‘powerless’ in their jobs.

This account of Thomas Gardiner’s role was challenged by the Labour Party and Thomas Gardiner.

Karie Murphy (then LOTO’s Chief of Staff) told us that Thomas Gardiner was seconded to this role ‘after concerns were raised regarding the function of GLU by the Leader and Chair of the Party’ and that ‘LOTO needed to be provided with regular updates and as previously requested, a comprehensive explanation on the processes’.

As part of his secondment, Thomas Gardiner was given a number of roles in the GSO, including in relation to the Labour Party's ongoing Democracy Review. However, it was also anticipated that he would assist the GLU; on his arrival GLU staff proposed that one of his responsibilities would be 'Antisemitism cases, Liaison with LOTO – Disputes' (continuing a practice that was already in existence by that point).

The Labour Party said that Thomas Gardiner simply provided advice on complaints, as appropriate for a legally qualified person with a governance role in the Party.

Thomas Gardiner told us that he 'gave most of these views on behalf of GSO' but 'decision-making on first-stage investigatory action remained with' the GLU.

An important email about Thomas Gardiner's role was dated 13 April 2018, from Karie Murphy, and addressed to Thomas Gardiner (but which does not appear to have been sent to him). This noted that he was 'acting with the authority of the Chair of the Labour Party', 'reporting back to the GSO and LOTO' and providing 'political oversight in GLU/Complaints'.

Thomas Gardiner said he was not aware of this email until it was later leaked to the press in 2019, and that Karie Murphy was referring to his responsibility to report back to the GSO and LOTO 'so as to ensure [the disciplinary processes were] fit for purpose'. The Labour Party suggested that the phrase 'political oversight' referred to his role in supervising the whole complaints system, not particular complaints.

Our findings on political interference in antisemitism complaint handling

We agree that the leadership of a political party has a legitimate interest in being made aware of cases of high reputational risk. It may take decisions in this context, for example, on how the leadership will respond to publication of a decision on a complaint. However, it is not legitimate for the leadership to influence, make recommendations, or make decisions on complaints outside of the formal complaints process.

In its original evidence to the investigation (later clarified as we explain above), the Labour Party referred to the leadership's role of upholding the Party's constitution and rules as justification for its involvement in complaints. We consider that this role requires the leadership to adhere carefully to the Party's formal complaints procedure, and to be seen to do so, rather than permitting it to interfere in decisions about individual complaints.

We agree that the Labour Party rules give the leader certain responsibilities for enforcing the Party's constitution. Those do not give the leader a specific role in handling or dealing with individual complaints, but do provide responsibility for matters of governance.

Accordingly, it is within the Leader's role to consider, for example, the effectiveness of the complaints handling system and its processes. Likewise, obtaining information and statistics on how those processes operate would be appropriate.

We welcome the Party's acceptance, in its representations, that the leadership must have no role in determining disciplinary outcomes.

We agree that the leadership and the Chief Whip have a role in matters relating to the conduct of MPs. However, neither LOTO nor the Chief Whip has the power to suspend or expel an individual from the Party: that power is reserved to the NEC and National Constitutional Committee (NCC), based on work done, in practice, by the GLU. It is therefore not legitimate for LOTO to interfere in the handling of a complaint against an MP that has been made under the Party rules.

The Labour Party has, on its own account, applied a different, unpublished process to 'politically sensitive' cases – a subjective term which is not likely to be capable of consistent definition. In any event, this process has not been applied consistently. In the complaint sample, we saw evidence that political interference by LOTO happened in cases that could not be described as politically sensitive and did not involve MPs or NEC members.

In summary, we find that LOTO's involvement in individual antisemitism complaints was not within the Labour Party's complaints process, and was therefore not a legitimate approach to determining complaints. The process has resulted in a lack of transparency and consistency in the complaints process. It has created a serious risk of actual or perceived discriminatory treatment in particular complaints. It has also fundamentally undermined public confidence in the complaints process.

It is essential that everyone involved in the complaints process follows a clear published procedure. We recognise the Labour Party's right to determine its own procedure, subject to the need for it to reflect the limits on the legitimate role to be played by the leader in the complaints process. In this context, we welcome the Labour Party's statement, in its recent representations, that it is developing a governance protocol, which will ensure that the Leader is not involved in deciding the outcome of any complaints, and that such 'guidance will need to be set out in the publicly accessible complaints process'.

In respect of the role of Thomas Gardiner, we make no findings as to the motivations behind his secondment, however:

- His role was expected to include liaison with LOTO on antisemitism cases, which facilitated the interference of LOTO that we have described above.
- He was working on complaints as a secondee to the GSO, not the GLU, and gave his views on some antisemitism complaints 'on behalf of GSO'. The GLU is the independent body that handles complaints within the Labour Party, and there is evidence that the GLU considered opinions from the GSO to be 'outside views' on disciplinary cases. This arrangement led to potential interference from outside the GLU in the handling of complaints, or the appearance that this was happening.
- Contrary to the Labour Party's submissions, evidence from our complaint sample suggests that Thomas Gardiner did take a decision-making, rather than purely advisory, role in some antisemitism complaints, while he was a secondee to the GSO, and before he had a permanent role in the GLU.¹³

¹³ In one case, he reviewed antisemitic social media posts and indicated that the member should simply be given a Reminder of Conduct. On being given more information, he decided that the member should be investigated but not suspended. The tone of the email exchanges makes it clear that the GLU staff considered that Thomas Gardiner had the decision-making power and not them. In another case, he suggested that a complainant should be investigated. The Head of Complaints disagreed, but said '[o]bviously, it is your [Thomas Gardiner's] call' (although it appears that the complainant was never actually investigated).

- Whatever the exact meaning of the phrase ‘political oversight’ in the 13 April 2018 email referred to above, the evidence shows that Thomas Gardiner carried out functions within the complaint handling process and reported on that process to the Party’s political organs (the GSO, Party Chair and LOTO).
- The combination of these issues means that we understand why some people perceived Thomas Gardiner to have been ‘installed’ in the GLU by the Party’s senior leadership for political reasons, whether or not that was the case.
- These factors undermined confidence in the complaint handling process and, in particular, its independence.

Political interference in complaints as unlawful discrimination

The Labour Party’s practice and policy

As noted above, the Labour Party accepts that LOTO staff operated a general practice of intervening in certain antisemitism complaints. In our sample, we saw examples of LOTO political interference happening from March 2016 to May 2019. We also received evidence of this practice from various former staff members who describe political interference by LOTO in cases other than those in our sample, and we note that the leaked report refers to further cases where LOTO was involved.

We also saw evidence that, for a period of time between March and April 2018, this approach became a more formalised policy in that all antisemitism complaints were referred to LOTO.

We saw emails between the GLU and LOTO regarding LOTO’s involvement in ‘agreeing recommendations for further disciplinary action’ in March 2018. The emails confirmed that LOTO would ‘give a steer on anti-Semitism complaints until the anti-Semitism working group is up and running’.

A draft document titled ‘Antisemitism and Racial or Religiously Motivated Abuse Action Plan’, dated April 2018, stated that the GLU would send ‘all relevant information including the Party’s recommendation’ on antisemitism complaints to a ‘predefined group of senior staff at the Leader’s Office’. This was described as a ‘formal structure for raising these cases with LOTO’.

The Labour Party said this part of the draft was not adopted by the NEC Antisemitism Working Group. However, the Labour Party admits operating a practice to refer all antisemitism cases to LOTO between March and April 2018. It denies that there was anything ‘procedurally inappropriate on the part of the LOTO staff involved at the time’.

There is a dispute between the Labour Party and former employees about who began the practice of LOTO interference in relation to all antisemitism complaints in March and April 2018, why and how far LOTO was involved.

The Labour Party says that ultimate decision-making remained with the GLU during this period. It says that the GLU ‘engineered this process to present a picture of improper political interference’ by LOTO during March and April 2018, and that no informal process had become formalised at that time. The Labour Party and former LOTO staff referred to concerns raised by some LOTO staff about why they were being asked to be involved in antisemitism complaints during this period. The Labour Party says there had been a ‘politicising of the issue of complaints, including antisemitism complaints, by sources external and internal to the central Party’.

Former GLU staff said that LOTO staff made decisions on the handling of antisemitism complaints. There is evidence from former staff members that the ‘Antisemitism and Racial or Religiously Motivated Abuse Action Plan’ and email exchanges with LOTO reflected a formalising of this process of LOTO involvement.

It does not matter for our analysis whether the formal process was instigated by LOTO staff or by GLU staff. They were all Labour Party employees acting in the course of their employment when they set up this system, therefore the Labour Party is responsible for their actions.

Examples from our complaint sample show that LOTO was involved in the decision-making process on certain antisemitism complaints during March and April 2018.

Example

In March 2018, the GLU requested LOTO’s input on its proposal to suspend a member due to alleged antisemitism. LOTO replied: ‘LOTO would like immediate suspension of [name] and a robust press line to that effect’. A member of GLU staff confirmed that he had ‘[j]ust

discussed with Karie [Murphy, then LOTO's Chief of Staff] and she told me decision is to suspend'.

Example

In April 2018, emails show that GLU staff sought 'the green light' from LOTO staff on whether Ken Livingstone could be subject to a formal interview. Thomas Gardiner (then seconded to the GSO) and Andrew Murray (former senior political adviser to Jeremy Corbyn) from LOTO confirmed that there was no option but to authorise the interview. A LOTO staff member, Laura Murray, commented: 'we have let the Ken case drag on for far too long already and, if GLU leak to the press that we have held up this investigation of him, it will look beyond awful'.

It appears that the formalised process ended at some point in April 2018. The Labour Party told us that this practice was ended by Jennie Formby as General Secretary, but exactly when, how and why it ended remains unclear.

However, we have seen evidence of the wider informal practice continuing until May 2019.

The Labour Party has confirmed that it would not initiate such a process now.

Although we have seen some evidence that LOTO was consulted on other types of complaints, such as sexual harassment complaints, this does not appear to have been as extensive or systematic as the political interference by LOTO that we saw in antisemitism complaints.

In addition to the intervention of LOTO, we also saw evidence of other forms of political interference in antisemitism complaints, as described above.

The practice as indirect discrimination

We find that the Labour Party adopted a practice of political interference in certain complaints. We received evidence that antisemitism complaints were, and remain, the most common type of complaint received by the Party. From what we have seen, this practice of political interference happened more regularly, including for a period of time in a more formal way, in antisemitism complaints.

As such, we have identified two separate relevant practices or policies:

1. the overall practice or policy operating from March 2016 to May 2019, in which LOTO or the leadership was involved in ‘politically sensitive’ complaints, and
2. the specific and formal practice of referring all antisemitism complaints to LOTO in March–April 2018.

We saw political interference happening on 23 occasions in our sample of 70 cases, sometimes more than once in the same case. Of these there were:

- 8 instances between March 2016 and the start of March 2018
- 10 instances during the period when this apparently became a more formalised policy between March and April 2018, and
- 5 instances between April 2018 and May 2019.

Both of these practices or policies fall within the definition of indirect discrimination that we explain in Chapter 2.

These practices or policies put the person making an antisemitism complaint at a disadvantage, because they gave rise to a reasonable perception of different and detrimental treatment, and a risk that their complaint would not be handled fairly, as well as actual different treatment in some cases (which was reasonably perceived to be detrimental). For example, political interference may have resulted in a complaint not being investigated because of fear of reputational damage to the Labour Party, rather than the conduct of the member complained of, or being handled more or less leniently than was justified by the facts of the case.

We received representations noting that the intervention of LOTO staff in some antisemitism cases was to press for action to be taken, and that this could not amount to a disadvantage. We accept that, in some cases, the LOTO staff interference catalysed action. However, the inappropriateness of political interference in antisemitism complaints is not necessarily about the particular outcomes that it led to, but rather the contamination (and / or the perception of contamination) of the fairness of the process.

Jewish members are proportionately more likely than non-Jewish members to make a complaint about antisemitism. Consequently, the practice of political interference in antisemitism complaints, and in ‘politically sensitive’ complaints generally, put Jewish members at a particular disadvantage compared to non-Jewish members.

For the reasons we give above, there was no good reason for LOTO staff to become involved in decision-making in antisemitism complaints, or in 'politically sensitive' cases, outside of the complaints process, therefore the interference was not justified.

We therefore find that the Labour Party's practice or policy of political interference in 'politically sensitive' complaints between March 2016 and May 2019, and the formal practice or policy of involving LOTO in antisemitism complaints in March–April 2018, amounted to unlawful indirect discrimination against its Jewish members, contrary to section 101(2)(a) and / or (d) of the Equality Act 2010.

Conclusion

We find that political interference in individual complaints within the Labour Party prevented its complaints process from working as it should have.

We also find that the practice of political interference, between March 2016 and May 2019, indirectly discriminated against Jewish members and was unlawful.

We recognise that the Labour Party has made some changes to clarify the complaints process, which may in turn reduce the risk of political interference. For example, guidance for GLU decision-making and changes to NEC and NCC procedures. We cover this in Chapter 4.

We welcome the Labour Party's commitment to provide publicly accessible guidance on its governance arrangements, which will ensure that the Leader is not involved in deciding the outcome of any complaints.

The Labour Party needs to restore confidence in the independence of its complaints process. We make recommendations on how it should do this below.

Our recommendations build on the recent public commitment by the Leader of the Labour Party, Sir Keir Starmer, to begin work on setting up an independent complaints process. We welcome this commitment.

The Labour Party has confirmed this commitment in its representations to this investigation. It told us that:

the Leader of the Labour Party, Keir Starmer MP, is committed to introducing an independent system to deal with complaints. The Labour Party is therefore commissioning an independent complaints process that is right for the unique organisational structure of the Labour Party. The Party has drawn up plans to introduce independence into every level of the disciplinary process. It hopes to implement those plans very shortly and as soon as reasonably practicable. The independence system will last for as long as necessary to rebuild trust in the Party's processes, but it will also continue beyond that: the Party will ensure that an element of independent oversight and auditing will remain as a permanent feature for the foreseeable future.

The Labour Party has explained that these reforms may require changes to its rules at the Party's Annual Conference.

Recommendations

The Labour Party must rebuild trust and confidence that antisemitism complaints are handled independently, efficiently and effectively. To do this the Labour Party should:

- Acknowledge, through its leadership, the effect that political interference has had on the handling of antisemitism complaints, and implement clear rules and guidance that prohibit and sanction political interference in the complaints process.
- In line with its commitment, and as soon as rule changes allow, commission an independent process to handle and determine antisemitism complaints. This should last until trust and confidence in the process is fully restored and should ensure that independent oversight and auditing are permanently embedded in the new process.

6. Serious failings in the antisemitism complaint handling system

Summary

For a complaint to be handled effectively, efficiently and fairly, an organisation needs to have clear policies and procedures in place and make sure that they are followed.

In this chapter, we look at whether the Labour Party's complaints process has enabled it to deal with antisemitism complaints antisemitism efficiently, effectively and fairly.

We set out our findings that the Labour Party's response to antisemitism complaints has been inconsistent, poor, and lacking in transparency, in terms of its process and decision-making, record-keeping, long delays and communication with complainants.

We compare the Labour Party's approach to antisemitism complaints with its policies and processes for handling sexual harassment complaints, which we find to be far better in several important ways.

Lack of clear information about how antisemitism complaints are determined

A clear, accessible and published complaints and disciplinary policy and procedure is fundamental for all parties involved in the process.

It ensures that both the person complaining and the person about who the complaint is made are clear about what to expect from the process.

For antisemitism complaints, the Labour Party has failed to publish a clear and comprehensive complaints or disciplinary policy or procedure.

This failing was identified by the Chakrabarti report in 2016. It explained that many individuals spoke of the 'lack of any readily available complaints procedure' and that complainants were often unclear about how a complaint would be dealt with, and who would deal with it.

The Chakrabarti report recommended that the Labour Party should adopt a 'readily accessible complaints procedure explaining with sufficient clarity how and to whom complaints are to be made' and the relevant processes that may be 'triggered', including the length of time for each stage of the process.¹⁴

The Labour Party has not published a comprehensive antisemitism complaints procedure in line with this recommendation. In response to our question about whether it intends to, the Labour Party said that from April 2019 the complaints procedure is 'outlined' on its website, and it:

may publish a more detailed complaints procedure online in due course with more specific information regarding different types of complaints and the different routes they take within the disciplinary process. However, it is incorrect to state that there is not already a complaints procedure which is publicly accessible.

We reviewed the Labour Party's complaints pages on its website. There is no mention of antisemitism on the [complaints web page](#), other than selecting this as an option for 'what kind of complaint is being made'. There is also no information about the process for dealing with an antisemitism complaint (although if someone does lodge a complaint online, a box appears briefly outlining the next steps).

The Labour Party has a separate webpage with resources on antisemitism, titled '[No Place for Antisemitism](#)', including a page on which it publishes [statistics on disciplinary cases](#). However, there is no reference or link to this page on the complaints page of the website.

¹⁴ Chakrabarti report, p. 16.

The Labour Party's Rule Book has a high-level section on disciplinary measures by the National Executive Committee (NEC), and a more detailed appendix of procedural guidelines in disciplinary cases before the National Constitutional Committee (NCC). However, it does not include any procedural guidelines or information on antisemitism complaint handling. For example, there is no information on the different procedural stages of an antisemitism complaint.

Comparison with sexual harassment complaints

In contrast, the Labour Party website's complaints page has a dedicated section on sexual harassment. This includes guidance for complainants about what sexual harassment is, access to an independent specialist advice service and [a dedicated portal for making a complaint](#). There is also a published policy and procedure document that sets out the complaint handling process. The ['Making a Complaint' web page](#) explains:

The Labour Party strives to provide a safe space for people to engage in campaigning and other political activity. The Party has a zero tolerance approach to sexual harassment and will take all complaints of this nature extremely seriously. If you experience any behaviour that you feel amounts to sexual harassment towards yourself or anyone else then there are various routes you can take within the party's complaints process. You can report it through the party's dedicated complaints portal or you can get advice and support from our free advice service operated by the independent charity, the Rape and Sexual Abuse Support Centre. More information about all available options can be found in the links below.

There are no similar resources or statements on the web page for antisemitism complaints, despite the Labour Party's stated commitment to zero tolerance of antisemitism.

Updating complainants

The Chakrabarti report stressed the importance of recording the identity of complainants to facilitate genuine, sensitive communication and ‘aftercare’ in relation to, for example, a member who has been targeted or upset unpleasantly by another member. It is good practice for a complaints process to update complainants on the progress of their complaint, and we would expect complainants always to be notified of the outcome of their complaint.

We found that the Labour Party did not update complainants consistently in the antisemitism cases that we examined, and did not always inform complainants about the outcome of their complaint.

The Labour Party told us that different approaches are taken for:

- **complainants who are ‘direct’ victims or witnesses**, and
- **‘third party’ complainants**, such as those who have witnessed something on social media, but who are considered not to have been affected personally by the incident complained about.

The Party indicated that, for data protection reasons, only those in the first group are updated on the progress of complaints, and the second group receive a standard acknowledgement.

However, we saw email evidence that, in February 2019, Governance and Legal Unit (GLU) staff were specifically instructed not to update any complainants on decisions in antisemitism cases.

Overall, we found that the Labour Party had failed to update, or to provide an adequate update to, the complainant in 16 of our 70 sample files.

The evidence on the exact policy or practice of updating complainants of antisemitism is inconsistent and confused. In particular, it is not clear whether it applied to other types of complaint.

In addition, we do not accept the reason for the policy or practice given by the Labour Party. Under this policy, the Labour Party treats someone who complains about an incident that was not ‘directed’ at them, such as an incident on social media, as a third party complainant – someone not directly affected by the incident.

In fact, as the evidence provided to the investigation shows, many people have been deeply offended by incidents on social media, whether or not they were named directly in the social media post. Treating them as someone not directly affected, simply because the content of an antisemitic post is not aimed at them personally, ignores the very real hurt and offence that these posts can cause to complainants.

The Labour Party told us that it has now ‘put in place detailed guidance [on] how staff should communicate with complainants’. However, the guidance the Labour Party refers to, while it addresses other elements of the complaints process, does not address communication with complainants.

In contrast, the internal sexual harassment procedure guidance for the GLU sets out the various stages at which the complainant and respondent should be contacted, and how.

We find the Labour Party’s policy and practice for updating complainants in antisemitism complaints, and for notifying them of the outcome of their complaint, to be unclear, inconsistent and inadequate.

Lack of clear and fair process for respondents

The Chakrabarti report noted the importance of making sure that ‘those in respect of whom allegations have been made are clearly informed of the allegation(s) made against them, their factual basis and the identity of the complainant – unless there are good reasons not to do so’.¹⁵

In 2017, the NEC Organisational Committee¹⁶ identified principles for disciplinary processes. This included that anyone accused of a disciplinary breach should be made aware of the nature of that breach in a ‘timely fashion’, and that NEC guidance notes should be drafted to ‘advise any persons under investigation of their rights and responsibilities’.

¹⁵ Chakrabarti report, p. 16.

¹⁶ A sub-committee of the NEC.

However, we found no evidence of a clear policy for respondents setting out their rights, and no clear decision-making process or guidance on when to provide information to respondents about complaints.

Our analysis of the complaint sample showed that:

- Some letters of administrative suspension failed to identify the underlying allegations, or did so in a vague manner.
- The system for explaining allegations to respondents and giving them an opportunity to respond was not always effective.
- Some complaint files did not hold the identity of the complainant.
- Respondents were not told the identity of the complainant even when there was no obvious reason to withhold their identity.
- Respondents were not generally given an expected timeline for the investigation

These themes are evidenced in the following examples.

Example

In 2016, a member was suspended with no details about the underlying allegations. Despite requesting this information on several occasions, the member was not informed about the specific allegations until months later. Following an application for an injunction to allow the member more time to prepare for the disciplinary proceedings, the High Court held that the Labour Party's approach to the timing of the NCC hearing was procedurally unfair and granted an injunction. The member was later expelled.

Example

A member was alleged to have made antisemitic comments during a parliamentary candidate selection process and in emails with other members of their Constituency Labour Party. The member was never given any details about the allegations despite repeated requests for them during the 2018 investigation. The member resigned before the complaint was finally determined.

Example

A member was alleged to have made antisemitic comments on social media and at a meeting. The Labour Party did not tell the member which meeting this related to or what they were alleged to have said. The member was not told the identity of the complainant, despite specifically requesting this in late 2017 with reference to the Chakrabarti report.

Example

A member was sent a notice of investigation, which referred to comments they were accused of making that might meet the definition of antisemitism. The member was not told what those comments were said to be, when they were said to have made them, where, or to whom they were alleged to have been made.

Overall, we identified concerns about fairness to the respondent in 42 of the 70 sample files.

Inconsistent application of administrative suspensions

Administrative suspension can be applied during an investigation and until the NEC or NCC has heard the complaint (we explain the process for administrative suspension in Chapter 4).

The Labour Party says that administrative suspension may be imposed to protect the immediate interests of the Party, which may have the purpose of protecting the investigation, protecting individuals concerned, or protecting the reputation of the Party against real or lasting damage.

Administrative suspension can have a significant impact on members. If the GLU applies suspension, the member cannot stand as a candidate in any election or represent the Party in any position.

In our complaint sample we saw that:

- Suspension or removing a suspension took place in response to external pressures.
- There was political interference in suspension decisions (we explain this in Chapter 5).
- The Labour Party almost never kept written reasons for a decision to suspend or a decision to lift a suspension.

Example

A complaint was made about a member in May 2016. The member's suspension happened around four months later, following a press briefing by the Leader of the Opposition's Office to the media that an administrative suspension was likely.

Example

Two members were administratively suspended many months after the Labour Party received the complaints about them, one in March 2018 and the other in February 2019. This was in apparent response to social media / media interest, without any new evidence becoming available.

To achieve a fair and consistent approach to administrative suspensions, decision-makers must have clear guidance on when it is appropriate to suspend.

However, we saw no evidence of any internal guidance on administrative suspension until 2019.

Since mid-2019, GLU staff have been given guidance on administrative suspension.

We have not seen any explanation for the failure to implement guidance before 2019. Had this been done sooner, it might have addressed the poor decision-making that we found on administrative suspensions.

Poor record-keeping

A complaints system should include effective management, monitoring and record-keeping of complaints.

Without this, it is impossible to ensure consistency in complaint handling or to make sure that complaints are dealt with in a timely, efficient, fair and effective manner.

The general quality of the record-keeping in the complaint sample was very poor. Several of the complaints in our sample were a 'nil return', meaning that the Labour Party could not find any evidence of them stored in complaint files. For almost all of the complaints, a first batch of limited material was disclosed, with more material provided many months later after our further request for information.

We saw many examples of important documents missing from the files, such as correspondence that had obviously been sent and was critical to decisions on the complaint, and files containing no evidence of the outcome of the complaint.

No complaint file. In one case we investigated, the relevant complaint was not stored in a complaint file, and the only evidence received was a result of email searches by the Party. The investigation spanned late 2018 to early 2019.

Near-empty complaint file. Similarly, another complaint file only included email correspondence, mainly from complainants, and a 'Reminder of Conduct' letter to the member in October 2018.

Overall, there were documents missing in 62 of our 70 sample files.

The Labour Party is capable of good record-keeping. For example, we were provided with one 2019 complaint file which demonstrated staff searching for corroborative evidence not included in the initial complaint, a prompt procedure, a fair opportunity for the person complained about to comment, and records of a firm sanction.

However, this highlighted how poor most of the record-keeping was in the files provided to us.

Lack of guidance to the NEC and NCC

We expected the NEC and NCC to be equipped with guidance to lead them through the decision-making process, including guidance on how to:

- assess what may or may not be antisemitic conduct
- judge the severity of antisemitic conduct
- decide on sanctions (we explain the position on sanctions in Chapter 7), and
- give reasons for the decisions made.

The Labour Party informed us that, when dealing with an antisemitism complaint, it applies the relevant code, takes into account the Chakrabarti report (especially pages 7-14 which have examples of unacceptable antisemitism conduct), and takes into account the International Holocaust Remembrance Alliance examples where relevant.

However, this process is not in any written policy specifically designed for the NEC and NCC decision-making stages, and there is no guidance that requires NEC and NCC panels to provide adequate reasoning for a decision.

This lack of guidance may explain the lack of clear decision-making by NEC and NCC panels, which we explain in the next section, and the inconsistent approach to sanctions, which we explain in Chapter 7.

Unclear decision-making by the NEC and NCC

NEC and NCC panels make decisions on suspension and expulsion, among other matters. Given the potential consequences for the person being accused, we would expect detailed notes of NEC and NCC meetings, and the reasons for their decisions, to be recorded. This is also essential to ensure confidence in the process and to allow monitoring of decisions.

However, the Labour Party informed us that it does not keep detailed notes of NEC antisemitism panel meetings and the reasons for the panels' decisions. This is particularly problematic now that the NEC has the power to expel members. We also note that an appeal to the NCC is on procedural grounds only, and question how someone can use this right properly without knowing the underlying reasoning from the NEC.

Our analysis of the complaint sample supports this and shows that the NEC and NCC do not often give reasons for their decisions; where they are given, they are often not adequate to explain why an allegation is found proven. We found unclear evidence of decision-making by the NEC and NCC in 56 of our 70 sample files.

Example

The NCC's decision, in March 2019, to expel a member did not contain any detail about the decision-making process or the reasons for reaching its decision. This is despite the hearing proceeding in the member's absence after the member and their legal team left at the start.

Example

In March 2019, the NEC decided to impose a formal warning, contrary to the GLU's recommendation to refer the member to the NCC. The NEC Disputes Panel did not provide any reasons for this.

Inappropriate use of informal communications in the complaints process

Complaints are a formal process. As such, they should be handled by formal methods of communication, such as official Labour Party emails.

The use of personal communications outside of the formal complaints process undermines confidence in the process, and affects its fairness and effectiveness.

We explain the political interference we found in complaint handling in Chapter 5; this may take place through informal communication channels.

In addition, because they do not form part of the complaint file process, including record-keeping, informal communications undermine scrutiny of the process.

The Labour Party told us that it had no evidence of complaints being discussed via non-Labour Party email addresses, except in the case of one individual who was contacted by the GLU via a personal email address to discuss a complaint.

However, Jennie Formby told us that she used personal communication regarding complaint handling in May 2018 because she did not ‘trust’ staff at Labour HQ who had access to her Labour Party email at that time.

In fact, it appears that there were many instances of informal communications outside of the complaints process. The scope and scale of this informal handling of antisemitism complaints is unknown, but the leaked report referred to ‘thousands of messages exchanged on ... an internal Party messaging service’ and 465,000 words in three WhatsApp groups.¹⁷

The Labour Party did not volunteer these messages (such as WhatsApp messages and personal emails) when we requested relevant personal communications regarding antisemitism complaints. The Labour Party informed us that it would be disproportionate and too onerous to provide this material to us. However, as indicated above, it appears that a vast amount of this material was collated for the preparation of the Labour Party’s own leaked report. If the scale of informal handling of complaints portrayed in the leaked report is accurate, it fundamentally undermines confidence in the fairness of the antisemitism complaint handling process.

Inaction and delay

In the leaked report, there are allegations that the Labour Party’s internal review identified ‘at least 170’ complaints in the period from November 2016 to February 2018 that were not acted on, and that the total figure was likely to be higher.¹⁸

The leaked report also says that from November 2016 to February 2018 there were only 24 notices of investigation in relation to antisemitism, and that ‘[t]his was not due to a lack of complaints ... it was due to a lack of action on complaints being submitted’.¹⁹

¹⁷ ‘The work of the Labour Party’s Governance and Legal Unit in relation to antisemitism, 2014-2019’, pp. 21-22.

¹⁸ As above, p. 240.

¹⁹ As above, p. 239.

The Labour Party told us that it was not able to confirm the number of complaints made, or action taken on antisemitism complaints, until 2018 when it started to record this data. As such, we are unable to verify whether 170 complaints were not acted on, as stated in the leaked report.

The Labour Party acknowledged a lack of action between 1 November 2016 and 19 February 2018. Jennie Formby told us that GLU staff only initiated 72 notices of investigation for all complaints during this period, and the leaked report says that 24 of these related to antisemitism.

The Labour Party told us that the main email inbox used as the 'official destination' for all complaints until February 2017 was 'largely left unmanaged', with very few emails being sent from it and 'no action taken on the majority of complaints forwarded there'.

Jennie Formby told us that one senior staff member emailed other staff saying that complaints were 'not being reviewed, categorised or passed onto us for an investigation' and suggesting that there was an issue with not 'having staff resource covering that inbox', and that another described complaints 'just sitting' in the complaints inbox.

Some former staff members denied these allegations of inaction.

We saw examples in our sample of complaints of inaction or a failure to investigate.

Example

In 2016, a Labour councillor shared an image of Jewish banker, Jacob Rothschild, on their Facebook page along with a caption claiming that the Rothschild family and other institutions, including the City of London and the Vatican, 'own our News, our Media, our Oil and even our governments'. It does not appear that this was investigated at all.

The Labour Party acknowledged that some complaints had been dealt with too slowly.

Delays in progressing complaints were also common in our complaint sample.

Example

The Labour Party was notified of Councillor Pam Bromley's Facebook activity on 24 May 2017. It took no action until 4 April 2018, and the NCC hearing did not take place until 21 March 2019.

Example

A complaint was made against a member on 13 September 2016, but no action was taken on the complaint until 7 April 2017. The NCC did not conclude the case against the member until over a year later.

Since 2019, there have been improvements in the rate of determining cases.

The Labour Party has reported that NEC antisemitism panels heard 274 cases relating to antisemitism in 2019, compared to 80 cases heard in 2018; and that 296 members were suspended in relation to antisemitism in 2019, compared to 98 in 2018. It attributes this to the introduction of NEC panels' power to suspend and expel, and 'increased resources, improved practices and investigatory techniques'.

Following an increase in the NCC's membership from 11 to 25, it determined 51 cases in 2019; an increase of 33 cases from 18 cases in 2018. The NCC is now required to decide on cases within three months after the case is served.

The Labour Party reports that 45 members were expelled in 2019 in relation to antisemitism: 26 of these were via NEC panels and 19 via NCC hearings, compared to 10 in total via NCC hearings in 2018.²⁰

Despite these improvements, the Labour Party confirmed to us that the NCC is 'still failing to complete cases' within three months as required by the new guidelines.

Overall, we found that there was delay in 39 of our 70 sample files, and we continued to see examples of unexplained delay in recent complaint files.

²⁰ See ['No Place For Antisemitism: Labour Party Disciplinary Processed on Antisemitism – Statistics'](#).

In May 2020, the Board of Deputies sent the Labour Party a briefing on a number of cases of antisemitism that it believed were still outstanding. The Board said ‘the most obvious and prominent example is Pete Willsman, but other members in question include a National Executive Committee member, a councillor, a council candidate, a CLP chair and a branch chair, as well as ordinary members’. We know from our evidence that complaints against Peter Willsman first arose in April 2018.

The Board noted that ‘during the leadership election, Keir Starmer and the other leadership contenders signed up to the Board of Deputies’ Ten Pledges’. The first pledge was that ‘all outstanding and future cases should be brought to a swift conclusion under a fixed timescale’. The third pledge was to ensure transparency on how cases were being handled.

The Labour Party told us that, since 21 May 2020, it has been holding weekly sub-panels of the NEC Disputes Panel with hearings taking place online. This has resulted in 218 cases being determined between 21 May and 21 August 2020, 192 of which involved allegations of antisemitism. Of these 218 cases, over a third have resulted in the relevant individuals being expelled from the Labour Party.

This evidence of recent progress is welcome. However, the evidence, and acknowledgement of delay, shows that the disciplinary process has failed to provide timely determination of all complaints.

Conclusion

We note that the leaked report alleges that ‘at no point’ from November 2016 to February 2018 ‘did the designated complaints process function’, and that ‘[m]ost antisemitism complaints submitted in this period, including cases of extreme antisemitism such as Holocaust denial and expressions of direct hatred towards Jewish people, were not acted upon at the time’.²¹

²¹ ‘The work of the Labour Party’s Governance and Legal Unit in relation to antisemitism, 2014-2019’, pp. 239-240.

Jennie Formby gave evidence to us that the Labour Party's response to the growth in antisemitism complaints from 2015 was:

for a long period, inadequate. Shortcomings are apparent in many aspects of the Party's response ... [o]ur procedures themselves were over-elaborate. Complaints ... were handled inefficiently, with, often, inexplicable delays ... at times tension in the party meant that [s]taff were distracted from their core tasks of managing the complaints and disciplinary processes, by ... internal political disputes.

Jennie Formby suggests that these systemic issues affected complaints of all kinds, not just antisemitism complaints. If correct, this means that an even wider pool of members was treated very poorly by their political party.

It is clear from the evidence that there were serious failings in the system for handling antisemitism complaints. The result is that those making complaints of antisemitism were served poorly by their political party, and that those responding to complaints were often treated unfairly.

The Labour Party has made improvements to its complaints and disciplinary procedures. We explain these in Chapter 4. They include the introduction of NEC antisemitism panels and reforms to the NCC system which have led to faster decision-making. We have seen examples of staff searching for corroborative evidence not included in an initial complaint, and some firm sanctions being imposed.

However, a number of problems remain:

- The Labour Party has not set out its process for responding to antisemitism complaints in a comprehensive published document.
- The Labour Party's policy and practice on updating complainants is unclear and inadequate.
- There is significant evidence of a lack of fair process for respondents.
- There is no comprehensive internal policy for antisemitism complaint handling.
- There is a lack of adequate guidance for NEC and NCC panels, and evidence of inadequate reasons being given by these panels for their decisions.
- Record-keeping is inadequate.

- Use of informal communications in the complaints process undermines confidence in the process.
- There remain concerns about delay in dealing with antisemitism complaints.

In addition to these problems, we set out further failings in the handling of antisemitism complaints in separate chapters. These explain the impact of political interference in complaints (Chapter 5), inconsistency in the use of sanctions (Chapter 7), and a lack of training and resources (Chapter 9).

We make recommendations on the steps the Labour Party should take to address these issues below.

Recommendations

The Labour Party must rebuild trust and confidence that antisemitism complaints are handled independently, efficiently and effectively. To do this, the Labour Party should:

- Publish a comprehensive policy and procedure, setting out how antisemitism complaints will be handled and how decisions on them will be made. This should include published criteria on what conduct will be subject to investigation and suspension, and what will be considered an appropriate sanction for different types of proven antisemitic conduct (we cover sanctions in more detail in Chapter 7).
- Develop and implement comprehensive internal guidance for all stages of the antisemitism complaints process on:
 - decision-making criteria
 - robust record-keeping, including recording reasons for decisions
 - timescales, and
 - communication, including regular communication with complainants and clear rules regulating the use of informal methods of communication in the complaints process.
- Make sure that it has a system and culture that encourages members to challenge inappropriate behaviour and to report antisemitism complaints.

To evaluate the effectiveness of improvements to the antisemitism complaints process, the Labour Party should:

- Collect, analyse, and publish quarterly data that enables a comparison between the handling of antisemitism complaints and other types of complaint. This should include the number of complaints, the outcome, what body made the decision (the Governance and Legal Unit, the NEC or the NCC), the sanctions applied, the time taken for completion, and how many complaints remain outstanding.
- Audit its complaint handling processes on a regular basis, including response time and consistency of outcomes, including sanctions, and make changes to address any issues identified.
- Measure staff and stakeholder confidence in the complaint handling process and respond appropriately to the feedback.
- Put in place long-term arrangements for independent oversight of the complaint handling process, to make sure that standards are monitored and enforced and adequate resources are in place.

7. Application of sanctions in antisemitism complaints

Content warning: this chapter contains explicit and offensive language

Summary

This chapter looks at whether the Labour Party has applied sanctions effectively in cases where it has found complaints of antisemitic conduct proven. The types of sanction the Labour Party may apply are set out in Chapter 4.

In Chapter 6, we set out serious failings in the complaints process. These include the failure to publish a clear policy on how antisemitic conduct is sanctioned, the failure to provide adequate reasons for decisions, and poor record-keeping.

These failings undermine confidence in the process. They make it difficult to analyse decision-making in individual cases and to identify whether sanctions were appropriate.

The Labour Party has recently introduced reforms that improve the ability of National Executive Committee (NEC) and National Constitutional Committee (NCC) panels to decide cases and to expel members when appropriate.

However problems remain. In particular, there is:

- no clear guidance for members on how antisemitic conduct is sanctioned
- no clear guidance for decision-makers on how to decide on the appropriate sanction
- a continuing failure to provide adequate reasons for sanctions, and
- poor record-keeping.

Failure to provide guidance for members on how antisemitic conduct is sanctioned

In Chapter 6, we explain that the Labour Party has not published a comprehensive antisemitism complaints procedure, as recommended by the Chakrabarti report in 2016. There is also no published guidance on how to decide which sanction to impose for antisemitic conduct found to have breached the conduct rule.

Such guidance is important to make sure that members are aware of the consequences of antisemitic conduct.

Failure to provide detailed guidance for decision-makers

As we explain in Chapter 6, we expected NEC and NCC panels to be equipped with guidance to lead them through the decision-making process, including guidance on how to judge the severity of antisemitic conduct and decide on sanctions.

However, we found that there is no written policy or guidance on how to choose the appropriate sanctions at the NEC and NCC decision-making stages.

Failure to provide adequate reasons for sanctions

In Chapter 6, we explain the importance of providing reasons for decisions in antisemitism cases. It is also important to provide reasons for the sanction imposed, so that those decisions are transparent and can be scrutinised.

The Jewish Labour Movement told us it considers that ‘the application of sanctions is extremely subjective and there is little clarity for either the respondent, complainant or NEC as to what to expect at the end of the process’.

This view was evidenced in our investigation. In most of the complaint files we analysed, no reasons were provided for the sanctions imposed. This is particularly problematic where the NEC or NCC imposes a lesser sanction than recommended by the Governance and Legal Unit (GLU), because it can appear unduly lenient and undermines confidence in the complaints system.

Example

Labour MP, Chris Williamson, was accused of making public comments about antisemitism smears, supporting members expelled for antisemitism, and sharing social media posts relating to others accused of Holocaust denial and antisemitism. The GLU report recommended referral to the NCC (which could lead to expulsion). It said that he had not demonstrated an understanding of why his conduct amounted to a pattern of behaviour that appeared to demonstrate hostility or prejudice towards Jewish people, and had not shown any understanding of why he should not share platforms with former members expelled due to antisemitism.

Instead of referring the case to the NCC, the NEC Disputes Panel imposed a formal warning in June 2019. It did so despite finding that Chris Williamson had ‘engaged in conduct online and offline that, due to its reckless and needlessly provocative nature, was grossly detrimental to the Party’ and ‘may reasonably be seen to involve antisemitic sentiments, stereotypes and actions’.

The NEC did not provide any reason for its decision that a formal warning was an adequate sanction, or for not following the GLU’s recommendation.

As we explain in Chapter 5, the NEC’s decision prompted an outcry from Campaign Against Antisemitism (CAA), the Board of Deputies of British Jews, and Labour MPs and peers.

Example

On 23 April 2019, an NEC Disputes Panel imposed a formal warning on a member for antisemitic posts on social media, although the GLU recommended that the case should be referred to the NCC. The social media comments included: 'How can we not have empathy with the Palestinians when they are up against these murdering, Zionest [sic] bastards. Their NAZI masters taught them well'. Detailed notes of the NEC Disputes Panel meeting and the reason for the sanction were not kept.

The Labour Party told us that GLU recommendations are advisory. We agree that the NEC and NCC panels must have the autonomy to decide on the most appropriate sanction, which may or may not be as recommended by the GLU. However, it is important that the reasons for the decision-making are clear.

As we explain in Chapter 6, we found no clear evidence of decision-making by the NEC and NCC in 56 of our 70 sample files.

In 2016, the Home Affairs Select Committee (HASC) recommended that transparency in disciplinary proceedings should be increased. It referred to examples of Labour Party members who have been accused of antisemitism, investigated by the Party, and then reinstated with no explanation of why their behaviour was not considered to be antisemitic. It recommended that a statement should be published alongside every expulsion or reinstatement after any investigation into suspected antisemitism.

The Labour Party has not implemented this recommendation. In its representations it said that to do so would be likely to breach members' data protection rights, especially given that membership of a political party is sensitive personal data for the purposes of the General Data Protection Regulation (GDPR) and the Data Protection Act 2018, and that it could give rise to other legal concerns.

We recognise these concerns. However, we consider that the Labour Party should publish anonymised information about the outcomes of antisemitism complaints, beyond the information it already publishes, to increase transparency and public confidence in the process. We make a recommendation about this below.

Poor record-keeping, implementation and monitoring of sanctions

A good complaints system should include reliable record-keeping and monitoring of sanctions. Without this, it is difficult to monitor fairness, consistency and effectiveness of sanctions.

However, as we explain in Chapter 6, we found that the general quality of record-keeping in the complaint sample was very poor. There were documents missing in 62 of our 70 sample files.

A good complaints system must also ensure that decisions to impose sanctions are implemented effectively. However, we found examples where errors in implementing sanctions contributed to ineffectiveness of the sanction.

Example

The NEC decided that a member should receive a formal NEC warning and delete their antisemitic social media posts. The NEC advised that if the member offended again, the complaint would be referred to the NCC. However, the warning letter that was sent did not mention deleting the offending posts. This mistake was not corrected.

Example

In January 2019, the NEC imposed a formal NEC warning and a requirement for training on a local councillor. Instead of issuing a formal warning, the GLU mistakenly issued a Reminder of Conduct with no training. The mistake was not corrected.

Regarding monitoring, the Labour Party told us that it does not monitor engagement with training when given as a sanction.

Until 2019, the Labour Party did not publish statistical data on sanctions for antisemitic conduct. Since 2019 it has done so.²² However, it is not clear how regularly this data will be updated.

Use of education and training as a sanction

The Labour Party told us that training was offered as a sanction from around February 2018. However, in early 2019 the Labour Party informed us that training was 'phased out ... due to the Party's difficulties in procuring training to offer'.

We saw evidence in our complaint sample of training being offered to reduce or lift a sanction.

Example

The conduct of a member against another member was antisemitic. They expressed no remorse and suggested that the complainant (who was Jewish) should be held responsible for the actions of the Israeli government. In 2018, the NEC gave the member a formal warning and continued their administrative suspension for another year. The member was given the caveat that if they attended training by a 'recognised provider', the suspension would be lifted automatically. However, no training was provided.

CAA has submitted to us that education should not be a sanction, because it is a preventative measure, or may be useful as a rehabilitation package for members returning from suspension or readmitted following expulsion.

We recommend that all members found to have engaged in antisemitic conduct (apart from those who are expelled) should be expected to undertake an educational course on antisemitism.

²² See ['No Place for Antisemitism: Disciplinary Processes'](#).

To offer such a course, the Labour Party should fully implement the recommendations of previous reports to provide education and training on antisemitism. We explain this in Chapter 9.

Improvements made to the sanction system

The Labour Party has made reforms which it says allow the NEC to ‘quickly and robustly’ decide on complaints. It also referred us to new procedural guidelines for the NCC to decide on cases ‘fairly, without unnecessary formality or undue delay, and in any event within three months’. We explain these in Chapter 4.

The Labour Party reports that 45 members were expelled in 2019 in relation to antisemitism, compared to 10 in 2018 and 1 in 2017. This increase in expulsions is reflected in our complaint sample: there were 9 expulsions in 2019, compared to only 3 in the three-year period beforehand.

As we explain in Chapter 6, the Labour Party told us that, since 21 May 2020, it has been holding weekly sub-panels of the NEC Disputes Panel. This has resulted in 218 cases being determined between 21 May and 21 August 2020, 192 of which involved allegations of antisemitism. Of these 218 cases, over a third have resulted in members being expelled from the Labour Party.

Conclusion

The Labour Party has recently made significant improvements, which have resulted in an increase in the use of sanctions for antisemitic conduct. However, there is still:

- no clear guidance for members on the sanctions for antisemitic conduct
- no clear guidance for decision-makers on how to decide on sanctions
- a continued failure to provide adequate reasons for sanctions, and
- poor record-keeping.

Our investigation focused on the handling of antisemitism complaints. Some of the problems we have identified may also apply to other types of complaint. If that is the case, we would expect the Labour Party to address our concerns for all types of complaint.

Recommendations

The Labour Party must live up to its commitment to be a political party with zero tolerance of antisemitism; it must rebuild trust and confidence that antisemitism complaints are handled independently, efficiently and effectively.

In Chapter 6, we made recommendations for changes to the complaint handling process to achieve this. In relation to sanctions, we make the following additional recommendations. The Labour Party should:

- Take steps to increase transparency in the disciplinary process, as highlighted by the HASC report, by reporting regularly on the reasons for the final outcome decisions in antisemitism complaints, taking account of legal requirements to publish anonymised information where appropriate.
- Make sure that all members found to have engaged in antisemitic conduct (apart from those who are expelled) undertake an educational course on identifying and tackling antisemitism, regardless of the level of sanction applied.

8. Investigation of antisemitic conduct on social media

Summary

In this chapter, we describe the Labour Party's policy of not investigating complaints about members' social media activity if they liked or shared content without commenting on it. This policy applied, albeit inconsistently, from at least June 2017 to mid-2018.

We give examples of antisemitism complaints that should have been investigated but were not as a result of this policy.

We explain that the Labour Party no longer uses this policy and accepts that it led 'to extremely poor decisions made on antisemitism cases'.

We set out our finding that this policy was inconsistent with the Party's stated commitment to zero tolerance of antisemitism.

Antisemitic conduct on social media

As we explain in Chapter 3 and Annex 3, conduct on social media may breach the Equality Act 2010, for example, where it amounts to unlawful harassment. It may also breach the Labour Party's conduct rule.

The [Labour Party's web page](#), '[No Place for Antisemitism: Disciplinary Processes](#)', notes that the 'vast majority of complaints [of antisemitism] pertain to social media activity'. The Party also told us that antisemitism has emerged within the Party 'mainly but not exclusively on social media'.

In 2016, the Home Affairs Select Committee found that there had been an increase in antisemitic incidents, and a significant number of viscerally antisemitic social media posts directed at MPs.²³

We found that most of the complaint sample we investigated involved social media: of the 70 complaints, 59 involved conduct on social media.

The Labour Party's policy

The evidence we received showed that, from at least June 2017 to mid-2018, the Labour Party operated a policy of not investigating complaints about Party members' social media activity if they liked or shared content without commenting on it. The report leaked to the press on 12 April 2020 suggests that this policy dated back to August 2015.²⁴

The Labour Party confirmed that it applied this policy. It said that the policy started to be developed in 2016 by the former Director of the Governance and Legal Unit (GLU). The National Executive Committee (NEC) agreed a policy paper, in March 2017, that '[r]etweets and likes alone on social media are not a reason for disciplinary action' and 'should not in itself be a reason for taking disciplinary action – save for a warning.'

At that time, the Labour Party considered that this policy was justified because: '[shared social media posts] don't necessarily reflect a person's own views, they are however used to advise a decision where other evidence is available or where a pattern of behaviour is clear'.

The Labour Party has now accepted that, although the policy was not applied consistently, when it was applied, it 'led to extremely poor decisions made on antisemitism cases'.

We saw several examples of complaints about antisemitic behaviour on social media where the policy resulted in the complaints being rejected inappropriately or in poor decisions being made.

²³ Home Affairs Select Committee report, p. 24.

²⁴ 'The work of the Labour Party's Governance and Legal Unit in relation to antisemitism, 2014-2019', pp. 203-204.

Example

A member was suspended in 2016 for a range of antisemitic tweets of other people's content. The suspension was lifted despite the member's wider social media activity revealing shares of Holocaust denial and antisemitic conspiracy theories. The individual remained a member until they resigned two years later.

Example

A member shared a meme in March 2018, which expressed that 'an antisemite is now someone Jews hate'. They had also shared other antisemitic content on social media, including a Holocaust denial article. This was not investigated, but the Labour Party said that the member was suspended in 2019 following 'historical audits'.

Example

In 2018, complaints were made about several retweets of Rothschild conspiracy theories. This was not investigated but, again, following historical audits, the member was put under investigation in 2019.

The policy's effect on antisemitism complaints

As the examples above demonstrate, the policy led to the GLU not investigating complaints of likes, retweets and shares even when it was appropriate to do so, which meant that potentially antisemitic conduct went unchallenged.

Sharing social media content, such as an image, meme, article or video, may or may not reflect a person's own views. The circumstances surrounding the share will be relevant, for example, whether the individual has shared similar content before and who the content is shared with.

The policy adopted by the Labour Party meant that even repeated sharing of antisemitic material could have escaped investigation, where it could have amounted to a breach of the Party's conduct rule and unlawful harassment or discrimination.

A more flexible approach would have allowed investigation in appropriate cases, such as those referred to in this chapter.

This does not mean that every share, like or retweet should always be investigated for misconduct. However, members should be able to complain about such conduct and have their complaint considered in appropriate cases.

The Labour Party told us that the policy was no longer in practice from mid-2018 'because it was unclear why it was ever used, and an unreasonable restriction to place on investigating online misconduct'. It also said that there was 'confusion' at that time about how misconduct on social media should be dealt with, which was made worse by a lack of written internal guidance when making decisions.

The Labour Party's current social media policy

In 2018, the Labour Party introduced a policy on social media use. This is set out in an NEC statement available on the Party's website: ['Code of Conduct: Social Media Policy'](#). This statement does not refer to antisemitism, although it does refer to 'race' and 'religion'.

The statement focuses on 'abusing someone online' and encouraging reporting of 'abuse behaviour'. It says that members should not give 'a voice to those who persistently engage in abuse and to avoid sharing their content', and that breach of the policy set out in the statement will be dealt with in line with the Labour Party's rules and policies.

We consider that this policy should state clearly that members may be investigated and subject to disciplinary action if they share or like any antisemitic social media content.

Since September 2019, the Labour Party has introduced internal guidance for the GLU when making decisions about what action, if any, to take on a complaint. The guidance clearly directs the GLU to consider retweets or shares of offensive material when deciding what action to take on a complaint. It says:

If the posts were "retweets" or "shares", they are more likely to be done unthinkingly and may not necessarily represent an endorsement of the views contained within them. However, where the content is obviously prejudiced, it will still be treated as a serious incident.

The guidance clarifies that one share can result in an investigation, and includes examples of appropriate considerations for assessing complaints about social media shares or likes.

More information on the Labour Party's current complaints process is included in Chapter 4.

Conclusion

As a result of its policy, the Labour Party failed to investigate antisemitism complaints based on likes, retweets and shares on social media.

This policy contradicted the Labour Party's commitment to zero tolerance of antisemitism.

It is positive that the Labour Party has acknowledged that its policy was wrong and has confirmed that it is now actively investigating complaints, including complaints against 30 members who shared or liked social media content that appeared to be antisemitic.

The Labour Party told us that it has engaged with Labour-supporting Facebook groups, who were identifiable as Party members, to provide guidance about moderating content, as suggested by the Jewish Labour Movement. It has also worked with Facebook to moderate groups that appear to support the Labour Party but contain antisemitic content.

Managing social media use by employees, agents and members is an important issue for all organisations. A clear policy, which sets out standards of expected behaviour and provides flexibility to investigate conduct on a case-by-case basis, will enable organisations to handle complaints effectively in a systematic and fair way.

Moving forward, the Labour Party should make sure that its social media policy, and its guidance on investigating complaints about social media, demonstrates its commitment to zero tolerance of antisemitism. It should monitor trends in social media use and remain flexible to address new issues. It should also educate members about the appropriate use of social media and the underlying prejudices, behaviours and assumptions behind acts of antisemitism, as we explain in Chapter 9.

This will help to prevent antisemitic conduct on social media in the future. It will also help to improve members' confidence that the Labour Party's policies and culture will ensure that antisemitic behaviour, including on social media, is challenged and will result in disciplinary action.

Recommendations

The Labour Party must rebuild trust and confidence that antisemitism complaints are handled independently, lawfully, efficiently and effectively. To do this in relation to antisemitic conduct on social media, in addition to the recommendations in previous chapters, the Labour Party should:

- Review and update the 'Code of Conduct: Social Media Policy' to make it clear that members may be investigated and subject to disciplinary action if they share or like any antisemitic social media content.

9. Training for antisemitism complaint handling

Summary

In this chapter, we look at how the Labour Party provides training and resources to those involved in handling antisemitism complaints.

Those dealing with antisemitism complaints should be trained, to ensure that they are equipped with the knowledge and skills needed to handle complaints consistently, effectively and fairly.

We set out our finding that, despite previous recommendations and the Party's acknowledgment of the need for it, there has been a failure to arrange and deliver adequate training to individuals who are responsible for handling antisemitism complaints. This failure contributes to a lack of trust and confidence in the complaint handling system.

The Labour Party has implemented a comprehensive training scheme for sexual harassment complaints. We find that the failure to provide adequate training to those handling antisemitism complaints was unjustified and indirectly discriminated against Jewish Labour Party members.

In this chapter, we also look at the Labour Party's slow response to implementing recommendations around resourcing the complaints and disciplinary process.

We conclude by considering how the Labour Party can demonstrate its commitment to zero tolerance, and improve confidence that it is tackling antisemitism in the Party, by providing education and training on antisemitism more generally to members, including staff and officials.

Training of those involved in complaint handling

An efficient and effective complaint handling process needs adequate training for all those involved in it.

This was recognised explicitly in the Chakrabarti report in 2016, which recommended that there should be appropriate training for all staff and members involved in the Labour Party’s investigation and disciplinary process. Adequate training requires not only an academic understanding of what antisemitism is, but also practical training on how to handle antisemitism complaints.

We expected to see a training programme for all individuals involved in the antisemitism complaint handling process, especially because, since 2017, the Labour Party has provided high-quality, externally provided training in dealing with sexual harassment complaints, for Governance and Legal Unit (GLU) staff and National Executive Committee (NEC) and National Constitutional Committee (NCC) members. This training is a requirement for NEC and NCC members before they sit on sexual harassment complaints panels. We were informed that the training includes information on the law and practical guidance on handling sexual harassment complaints.

It is clear from the Labour Party’s own statements that a similar investment is needed in handling antisemitism complaints.

Jennie Formby told us that Baroness Chakrabarti provided training to the GLU team in respect of the recommendations in her report, and that Labour Party staff have had advocacy training and regular in-team training on case-handling. However, we were not provided with any further details about this training, and the Labour Party accepted that, from 2016–18, GLU staff ‘lacked the skills necessary to run a complex complaints system’.

Further, they were not sure how to ‘identify antisemitic conduct when the conduct was not overtly racist and how generally to identify discrimination’. The Labour Party confirmed that GLU staff had no previous experience relevant to handling complaints.

We found that the Labour Party has failed to develop or implement adequate training in relation to antisemitism complaints, despite the matter being raised repeatedly internally since 2016 as set out below.

October 2016: the NEC Equalities Committee discussed the need to implement previous recommendations, including training for role holders.

March 2017: the NEC Organisation Committee decided that 'appropriate training must be provided to any person who may be involved in handling any complaint'.

April 2018: the Labour Party's NEC Antisemitism Working Group (ASWG) was set up. Jennie Formby told us that the ASWG was tasked with making recommendations on education and training. We saw notes from a meeting in April 2018 reporting that Jennie Formby wanted the GLU to 'revisit the AS [antisemitism] training' and to 'source an organisation, not JLM [the Jewish Labour Movement], to do some further AS training – this can be via the e learning platform (when is this ready) [sic] for members and then something specifically for the NCC and NEC' and 'get a plan of training events sorted on this – maybe mandatory'.

May 2018: the NEC agreed that antisemitism training would be made available to all NEC members to maximise the pool of panellists for the new antisemitism panels.

July 2018: the ASWG recommended that training should be offered to all NEC and NCC panel members and all staff working on the disciplinary process. It referred to the lessons learned from the complaint handling process for sexual harassment, which specially trained NEC members. The NEC approved a one-day educational workshop on antisemitism for all complaints staff and NEC and NCC panel members. The workshop was due to be delivered in September 2018.

August 2018: new NEC antisemitism panels were implemented with no training or educational workshops.

Finally, in September 2019, the Labour Party began to offer a programme of antisemitism education for those involved in complaint handling, through a course provided by Birkbeck, University of London. However, the Labour Party confirmed to us that this is an academic course; it does not provide practical training on how to handle antisemitism complaints.

This was confirmed by an NEC member who attended the Birkbeck course. They told us that the course did not include training on how to handle antisemitism complaints, was not based on equality law, and provided minimal guidance on how to recognise antisemitism.

We saw an email in August 2019 confirming that the Labour Party ‘expect[s]’ all NCC and NEC panel members to sign up for the ‘educational course’.

The Labour Party’s evidence to us was that the course has been undertaken by all staff who work on disciplinary issues, as well as nine NEC members and ten NCC members. However, an NEC member told us that they were ‘frequently asked to volunteer to staff antisemitism disciplinary panels’ despite not having yet attended the Birkbeck course.

There is still no equivalent to the practical training that is mandatory for those handling sexual harassment complaints.

The Labour Party said it had been more complex and difficult for it to procure antisemitism training than sexual harassment training, and that discussions with the Pears Institute for the Study of Antisemitism (at Birkbeck) in spring 2018 ‘stalled later that year because of pressure applied on the Institute’.

No further details were provided to us.

The Jewish Labour Movement (JLM) explained to us that it had been commissioned by the Labour Party to provide antisemitism awareness training for Constituency Labour Parties, Branch Labour Parties and Labour groups. However, the Labour Party did not invite the JLM to provide training to NEC and NCC members. Following the Labour Party’s announcement of the appointment of the Pears Institute, the JLM suspended its training pending the outcome of our investigation.

Even if a bespoke antisemitism education course was more complex to commission, three years of non-delivery, despite receiving clear recommendations from the Chakrabarti report, leads us to find that antisemitism was not given the same priority as other issues within the Labour Party at that time, including sexual harassment complaints.

The Labour Party said that to make sure NEC antisemitism panels were not lacking proper guidance and knowledge, while it procured education and / or training for NEC members, it made an independent legal adviser with expertise in equality law available to the panels.

However, as we explain in Chapter 6, NEC panels have only had access to legal advisers from mid-2018. Further, NCC panels have only had access to the Labour Party's external legal advisor at hearings since May 2019, and the Labour Party told us that this only tends to happen in cases with a 'high risk of challenge'. There is no guidance on what this means.

We do not accept that the delay in commissioning and implementing an academic educational course, or the failure to provide any other practical training to NEC or NCC panel members, was justified.

We do not agree that these failures were adequately mitigated by providing legal advice to panels, as suggested by the Labour Party. This should have been in addition to, not instead of, providing adequate training for members.

In summary, although some education has been provided recently, those dealing with antisemitism complaints have not been given practical training in how to do so consistently, effectively and fairly, and no system of training is currently in place to address that.

This must have had a negative effect on the quality of complaint handling, especially given the complexities in some cases of identifying the difference between antisemitic conduct and acceptable free speech, and the lack of guidance in assessing antisemitism complaints. We discuss this lack of guidance in Chapter 6 and Chapter 7.

This failure helps to explain the poor decision-making that the Labour Party accepts has been present in antisemitism complaints.

In representations made to this investigation in August 2020, the Labour Party accepted that those handling antisemitism complaints should be properly trained in that role, and that the training has to be acceptable to Jewish community stakeholders. However, it has told us that stakeholders, including the JLM, for understandable reasons, are not willing to re-engage with the Party on the issue of training until after publication of our report. The Labour Party says 'the right course now is to craft a process which has the confidence of the Jewish community', and that this builds on the commitment made by Sir Keir Starmer to re-engaging the JLM 'to lead on training about antisemitism'.

Failure to take adequate steps to arrange and implement training as unlawful discrimination

The Labour Party has failed to take steps to arrange and implement adequate training for those involved in the antisemitism complaints process. Even now, it only provides education to NEC and NCC panellists rather than practical training on complaint handling.

This contrasts with the Labour Party's external training on handling sexual harassment complaints, which is mandatory for NEC and NCC members before they sit on sexual harassment panels.

The failure to provide adequate training to those involved in antisemitism complaints is relevant to every antisemitism complaint, whether or not the complainant is Jewish. However, the practice of allowing untrained individuals to make important decisions in, and decide the outcome of, antisemitism complaints puts Jewish members at a particular disadvantage, because they are more likely to experience antisemitism and complain about it.

As we explain above, this is bound to have had a negative effect on the quality of antisemitism complaint handling.

We are not satisfied with the Labour Party's explanation for the delay in offering training until September 2019, when it began to offer an educational course about antisemitism, through Birkbeck College. In any event, as we have explained above, we do not consider that the Birkbeck College course was adequate training because:

- its focus was academic, rather than practical, and
- it was not attended by everyone in the Labour Party who was dealing with antisemitism complaints.

We find the Labour Party's practice or policy, before August 2020, of failing to provide adequate training to those handling antisemitism complaints, amounted to unlawful indirect discrimination against its Jewish members, contrary to section 101(2)(a) and / or (d) of the Equality Act 2010.

In August 2020, in its representations to us, the Labour Party formally committed to providing proper training for those handling antisemitism complaints, which is acceptable to Jewish community stakeholders. Because engagement with Jewish stakeholders could not happen practically before the publication of this report, we find that the Labour Party's current failure to provide adequate (including practical) training since August 2020 is justified.

However, we consider that this justification will cease within a short time after publication of this report, and we expect the Labour Party to have this practical training in place within six months of publication.

Inadequate resourcing of the complaints process

An efficient and effective complaint handling process needs adequate resourcing.

For the Labour Party, this means an adequately resourced GLU and adequately resourced NEC and NCC panels.

In 2016, the Royall report recommended that ‘the national complaints procedure should be properly resourced so that it can deal effectively with complaints of antisemitism’.

In the same year, the Chakrabarti report made recommendations for appointing general counsel or other staff lawyers, and expert staff who are trained and equipped to work on matters of discipline.

Despite these clear recommendations, and the Labour Party accepting that from 2016–18 GLU staff ‘lacked the skills necessary to run a complex complaints system’, the Party did not take action to implement changes to these resources until 2018.

It did not appoint legal advisors, or expert staff trained to work on handling complaints, in the GLU until 2018. The Labour Party did not explain the delay in implementing this recommendation.

The Labour Party said that there was a ‘sudden exodus’ of GLU staff after the change in General Secretary in April 2018. The Party responded to this issue by temporarily seconding staff to the GLU from the Leader of the Opposition’s Office, regional offices, and a law firm. It said that the number of full-time staff in the Disputes and Complaints teams (within the GLU) doubled between August 2018 and June 2019.

Despite the Labour Party’s confidence in the current resourcing of the GLU, when we asked the Party why a complaint from April 2018 had still not been progressed to the NEC in late 2019, it referred to competing priorities placed on GLU staff ‘such as preparations for Annual Conference, the General Election and responding to [this] investigation’.

There have also been delays in making sure that the NCC has adequate resources to hear enough antisemitism cases. The Labour Party told us that the low membership ‘meant that the NCC was unable to convene enough panels sufficiently quickly to hear cases in good time’. It is not clear when the Party knew that this was a problem, but it took almost two years after the recommendations to resolve resourcing issues within the NCC. In September 2018, NCC member numbers increased from 11 to 25 and all members had to sit on panels.

Similarly, it was not until August 2018 that reforms were made to introduce smaller NEC panels, which sit more regularly and are therefore able to decide more cases.

As we explain above, while the NEC has had specialist lawyers assisting with antisemitism complaints since 2018, no similar provision has been made available to the NCC. Since 2019, NCC panels have had access to the Labour Party’s external legal advisor, but the Labour Party told us that this only tends to happen in cases with a ‘high risk of challenge’. There is no clear explanation for this different approach, particularly in view of the lack of mandatory training offered to panellists.

Overall, there have been recent steps to better resource the GLU, the NEC and NCC panels, but progress has been slow. Further, the Labour Party needs to make sure that it does not divert its complaints staff to other work at the expense of resourcing the complaints system adequately.

Training and education of staff and members other than those involved in the complaints process

Previous reports have made recommendations for training and educating Labour Party staff and members who are not directly involved in complaint handling.

We agree that this is needed to address wider issues of antisemitic behaviour in the Party, and to demonstrate the Party’s commitment to zero tolerance of antisemitism.

In 2016, the Royall report recommended that there should be training on antisemitism for officers of all Labour clubs, and that the Labour Party should provide leadership and training on equality issues, including making sure that post-holders throughout the Party have access to the necessary materials and guidance.

Also in 2016, the Chakrabarti report recommended that the Labour Party should assess education and training needs across the Party to offer practical and enriching values-led programmes to members with varying needs and interests.

The Labour Party has not implemented these recommendations. We recommend that it should.

In this regard, we welcome the statement by the Leader of the Labour Party, Sir Keir Starmer, of his ambition to roll out training to all Labour Party staff as soon as possible.

We also welcome the statement by the Labour Party, in its representations, that it will work in partnership with us to make training resources available to its members more widely.

Conclusion

Despite clear recommendations from previous reports, and the Labour Party's acknowledgment of the requirement, the Party has failed to deliver adequate training to those individuals who are responsible for handling antisemitism complaints.

The Party's provision of academic education rather than practical training fails to equip decision-makers with the knowledge and skills they need.

This failure contradicts the Party's zero-tolerance commitment, and contributes to a lack of trust and confidence in the complaint handling system.

The failure to provide adequate training to those handling antisemitism complaints was unjustified and indirectly discriminates against Jewish Labour Party members.

We consider it justifiable for the Labour Party to have six months, following publication of our report, in which to arrange and implement appropriate practical training, in consultation with Jewish stakeholders, and therefore do not make a finding that the current failure to do so is unlawful.

In relation to resourcing, the Labour Party accepts that staff lacked the skills needed to run a complex complaints system between 2016 and 2018. However, despite the recommendations made in 2016, it does not appear to have taken any adequate steps to resolve the problem during that time.

While there have been recent steps to better resource the GLU and the NEC and NCC panels, progress has been slow and problems remain.

We make recommendations on the steps the Labour Party should take to address these issues below.

Recommendations

The Labour Party must rebuild trust and confidence in antisemitism complaint handling. To do this in relation to education, training, and resourcing of the complaint handling process, the Labour Party should:

- Commission and provide education and practical training for all individuals involved in the antisemitism complaints process. This should be implemented fully within six months of publication of this report and, from that date, should be mandatory before any individual is allowed to be involved in any stage of the antisemitism complaints process.
- Make sure that all members found to have engaged in antisemitic conduct (apart from those who are expelled) undertake an educational course on identifying and tackling antisemitism, regardless of the level of sanction applied.
- Roll out a programme of education and training on identifying and tackling antisemitism, for all staff, Party officials, and other members in positions of responsibility within the Party. We note the Leader of the Labour Party's statement about his ambition to roll out training to all Party staff as soon as possible.
- Develop all education and training programmes on antisemitism in consultation with Jewish stakeholders.
- Make sure that NCC panels are routinely assisted by an external lawyer in the same way that NEC antisemitism panels are.
- In line with the recommendation of the Royall report, make sure the complaint handling process is resourced properly so that it can deal with antisemitism complaints effectively and without delay.

10. A failure of leadership

We have identified serious failings in leadership during the period the investigation looked at, and an inadequate process for handling antisemitism complaints across the Labour Party.

While there have been some improvements in how the Labour Party deals with antisemitism complaints,²⁵ our analysis points to a culture within the Party which, at best, did not do enough to prevent antisemitism and, at worst, could be seen to accept it.

In earlier chapters, we identify relevant recommendations from previous reports which the Labour Party has not implemented adequately. This includes:

- a failure to publish a comprehensive antisemitism complaints procedure
- a failure to provide adequate training for staff and members involved in the investigation and disciplinary process, and
- inadequate resourcing of antisemitism complaint handling, at least until 2018.

These are set out in more detail in Annex 4.

Our analysis also uncovered serious failings in complaint handling. We found that the Labour Party's response to antisemitism complaints has been inconsistent, poor and not transparent, in terms of the process used, reasons for decisions, record-keeping, delay and failures to communicate with complainants. Some complaints were unjustifiably not investigated at all.

²⁵ Where there have been improvements in the complaint handling processes these are identified throughout the report, in particular in chapters 4, 6, 7, 8, and 9.

We found that the Labour Party committed unlawful harassment through the acts of its agents, including one individual who was a National Executive Committee member. Their conduct included suggesting that complaints of antisemitism were fake or smears, which undermines the Labour Party's commitment to zero tolerance of antisemitism and ignores legitimate and genuine complaints of antisemitism within the Party.

We also found evidence of political interference in the handling of antisemitism complaints throughout the period of the investigation.

The Labour Party has shown an ability to act decisively when it wants to, through the introduction of a bespoke process to deal with sexual harassment complaints. It is hard not to conclude that antisemitism within the Labour Party could have been tackled more effectively if the leadership had chosen to do so.

We find that the Labour Party has failed to address antisemitism within the Party in a way that demonstrates its stated commitment to zero tolerance, or that ensures all Jewish members feel welcome and can be confident that antisemitism will be dealt with effectively.

Recommendations

In addition to the recommendations we make in previous chapters, and to live up to its commitment to be a political party with zero tolerance of antisemitism, the Labour Party should:

- Continue to build on its new leadership's statement regarding its failure to deal with antisemitism, and acknowledge its responsibility for not living up to its commitment to zero tolerance of antisemitism.
- Engage with Jewish stakeholders to develop and embed clear, accessible and robust principles and practices to tackle antisemitism and to instil confidence for the future.
- Make sure that it has a system and culture that encourages members to challenge inappropriate behaviour and to report antisemitism complaints.

Annex 1: Unlawful act notice

Unlawful act notice served under section 21 of the Equality Act 2006 (Notice)

In the matter of the Investigation into the Labour Party as described in the terms of reference dated 28 May 2019.

The Commission for Equality and Human Rights, commonly referred to as ‘the Equality and Human Rights Commission’ (EHRC), hereby gives the following Notice to the General Secretary of the Labour Party, Mr David Evans, pursuant to section 21 of the Equality Act 2006 (EA 2006) that:

The Labour Party has been the subject of an investigation under section 20(1)(a) of the EA 2006. Following that investigation the EHRC is satisfied that the Labour Party has committed the following unlawful acts (Unlawful Acts):

1. The Labour Party committed unlawful harassment of its members, contrary to section 101(4)(a) of the Equality Act 2010, related to race (Jewish ethnicity), through the acts of its agents Ken Livingstone and Pam Bromley (as further set out in Chapter 3 of, and Annex 2 to, the EHRC’s report of the investigation titled: ‘Investigation into antisemitism in the Labour Party’ (Report)).
2. The Labour Party’s practice or policy of Political Interference (as defined in Chapter 5 of the Report) in antisemitism complaints amounted to unlawful indirect discrimination against its Jewish members,²⁶ contrary to section 101(2)(a) and / or (d) of the Equality Act 2010. As explained in the Report, the Labour Party operated two separate relevant unlawful practices or policies: first, the overall practice or policy operating from March 2016 to May 2019 in which LOTO or the leadership was involved in ‘politically sensitive’ complaints; and secondly, the specific and formal practice or policy of

²⁶ ‘Jewish members’ in this Notice means members of the Labour Party who have the protected characteristic of Jewish ethnicity and / or of Judaism.

referring all antisemitism complaints to LOTO in March–April 2018.

3. The Labour Party's practice or policy, prior to August 2020, of failing to provide adequate training to those handling complaints of antisemitism amounted to unlawful indirect discrimination against its Jewish members, contrary to section 101(2)(a) and / or (d) of the Equality Act 2010 (see Chapter 9 of the Report).

The Labour Party is required to prepare an action plan for the purpose of avoiding repetition or continuation of the Unlawful Acts. The EHRC makes recommendations for that purpose which are set out in the executive summary of the Report under the section titled 'Our recommendations for change'. The first draft of the action plan must be given to the EHRC by **5pm on Thursday 10 December 2020**.

By virtue of section 21 of the EA 2006 the Labour Party may, within the period of six weeks beginning with the day on which this notice is given, appeal to the appropriate court or tribunal on the grounds that it has not committed the unlawful acts specified in this notice and / or that the requirement for the preparation of an action plan is unreasonable.

On appeal, the court or tribunal may affirm, annul or vary a notice or requirement for the preparation of an action plan, and make an order for costs or expenses.

The appropriate court or tribunal is defined in section 21(7) of the EA 2006. The EHRC considers that the appropriate court or tribunal is the county court (in England and Wales) or the sheriff (in Scotland).

The EHRC may investigate whether or not a person has complied with a requirement imposed by an unlawful act notice under section 21 of the EA 2006.

If the EHRC thinks that a person is likely to commit an unlawful act, it may apply in England and Wales to the county court for an injunction restraining the person from committing the act, or in Scotland to the sheriff for an interdict prohibiting the person from committing the act.

Dated: 29 October 2020

Signed

A handwritten signature in black ink, appearing to read 'Alastair Pringle', with a stylized flourish at the end.

Alastair Pringle

Executive Director Delivery & Scotland
Equality and Human Rights Commission

151 West George Street,
Glasgow G2 2JJ

FOR AND ON BEHALF OF THE EHRC

Annex 2: Unlawful act case summaries

Content warning: this chapter contains offensive language

Ken Livingstone

Summary of facts

In April 2016, while he was a member of the Labour Party's National Executive Committee (NEC), Ken Livingstone made statements about antisemitic social media posts by Naz Shah MP, which we explain below.

Naz Shah's social media posts included an image suggesting that Israel should be relocated to the United States, with the comment 'problem solved', and a post in which she appeared to liken Israeli policies to those of Hitler. Naz Shah apologised for her comments in Parliament on 27 April 2016.

In media interviews between 28 and 30 April 2016, Ken Livingstone denied that these posts were antisemitic. He sought to minimise their offensive nature by stating that they were merely criticism of Israeli policy at a time of conflict with the Palestinians. He also alleged that scrutiny of Naz Shah's conduct was part of an apparent smear campaign by 'the Israel lobby' to stigmatise critics of Israel as antisemitic, as well as being aimed at undermining and disrupting the leadership of Jeremy Corbyn MP.

These comments were made on radio shows with large audiences. More than 20 Labour MPs called for Ken Livingstone to be suspended for his comments in April 2016.

Graham Stringer MP wrote to the Labour Party about the Jewish community he represented in North Manchester and Salford, having been 'very concerned about Naz Shah's postings on Facebook and Ken Livingstone's many statements during recent interviews'.

In a letter dated 15 February 2017, the Jewish Labour Movement set out the effect of Ken Livingstone's comments (including other comments not cited above) on the UK's Jewish community. The letter stated that his comments had 'caused immeasurable damage', and that the effect of his remarks on the relationship between the Labour Party and the Jewish community had been 'devastating'.

We have seen resignation letters from Labour Party members in which they cited Ken Livingstone's comments, and the failure of the National Constitutional Committee (NCC) to expel him in April 2017, as the reason for their resignation.

Labour Party members told us that Ken Livingstone's comments caused shock and anger among Jewish Labour Party members who felt they were appalling, highly offensive, very distressing and made them feel uncomfortable and unwanted in the Labour Party.

They told us they thought Ken Livingstone's statement, that scrutiny of Naz Shah's conduct was part of an apparent smear campaign by 'the Israel lobby', was a classic antisemitic trope. They said that the Jewish community and Jewish Labour Party members were raising very clear concerns about Naz Shah's comments. Instead of taking their concerns seriously, Ken Livingstone dismissed them as acting on behalf of a foreign power. They considered that this was clearly antisemitic.

Labour Party members said the effect of these comments was humiliating, denied the victims' experience, diminished the issue, had the effect of stirring up and fuelling hatred for Jews and contributed to the creation of a hostile and intimidating environment for Jewish Labour Party members.

Labour Party complaint handling

The Labour Party investigated complaints about these matters as alleged antisemitic conduct.

On 4 April 2017, the NCC upheld the complaints against Ken Livingstone and found that he made the comments outlined above. He was given a two-year suspension, which included the time he had been administratively suspended from April 2016 pending the investigation. There was a seven-month delay between the NEC referral to the NCC and the NCC laying charges.

Ken Livingstone resigned from the Labour Party on 21 May 2018.

Our findings

We find that the Labour Party committed unlawful harassment through the actions of its agent, Ken Livingstone, contrary to section 101(4)(a) of the Equality Act 2010, for the following reasons:

- **The Labour Party was responsible for Ken Livingstone's actions as an agent of the Party in his role as a member of the NEC.**

In making the comments above, we find that Ken Livingstone was acting in the course of his authorised functions. He said that he made the comments to defend the Labour Party, its leader and the Labour MP, Naz Shah.

For the reasons we set out in Annex 3, we consider that Ken Livingstone's conduct fell within his express or implied authority as an elected member of the NEC.

Furthermore, the Labour Party accepts, in its representations to the investigation, that he was acting as its agent in the specific circumstances identified.

We therefore find the Labour Party responsible for this conduct.

- **We find that Ken Livingstone's comments were unwanted conduct related to Jewish ethnicity, which, whether viewed individually or together with other relevant acts of Labour Party agents, had the effect of harassing Labour Party members.**

Ken Livingstone's comments, set out above, were unwanted conduct related to Jewish ethnicity.

The evidence referred to above shows that these statements had the effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for members, and prospective members, of the Labour Party, particularly those who were Jewish.

We have taken into account Ken Livingstone's right to freedom of expression, which is protected by Article 10 of the European Convention on Human Rights (ECHR). We accept that Article 10 is relevant when Labour Party members, for example, make legitimate criticism of the policies of the Israeli government, as we explain in Chapter 3. The comments made by Naz Shah went beyond legitimate criticism of the Israeli government, as she acknowledged, and are not protected by Article 10. Neither is Ken Livingstone's support for those comments, or his suggestion that scrutiny of them was part of a smear campaign by 'the Israel lobby'.

In finding that the Labour Party committed unlawful harassment through the actions of its agents, contrary to section 101(4)(a) of the Equality Act 2010, we have taken account of the evidence we received that the individual acts of harassment by its agents amounted to conduct creating a hostile environment for Labour Party members.

Ken Livingstone was given an opportunity to comment but did not provide any relevant points.

Pam Bromley

Summary of facts

Pam Bromley was a Labour Party local authority councillor in Rossendale.

Pam Bromley's Facebook profile identified her as being a 'victim of witch hunt', and she made numerous statements on Facebook between April 2018 and December 2019. These included:

- 'Some time back I got hammered for posting an anti-Rothschild meme. However here they are again. We must remember that the Rothschilds are a powerful financial family (like the Medicis) and represent capitalism and big business – even if the Nazis DID use the activities of the Rothschilds in their anti semitic [sic] propaganda. We must not obscure the truth with the need to be tactful' (post, 8 April 2018).
- 'A huge sigh of relief echoes around Facebook' (comment accompanying a shared BBC News story with the headline 'Israeli spacecraft crashes on Moon', 12 April 2019).

- ‘This is what’s behind all the false accusations of antisemitism. This is what, despite international condemnation, Israel does to its neighbour Palestine ... All hidden behind a fog of fake accusations of antisemitism’ (comment alongside a post about injuries in Gaza, 12 April 2019).
- ‘Looks like fake accusations of AS [antisemitism] to undermine Labour just aren’t working, so let’s have Chris Williamson reinstated’ (post, 20 April 2019).
- ‘Are you losing the argument? Or is it that you have nothing of value to add? Why not call your opponent an... anti-semite! This will make you feel like you have won the argument and you wont [sic] need to provide any evidence’ (post, 15 May 2019).
- ‘My major criticism of him – his failure to repel the fake accusations of antisemitism in the LP [Labour Party] – may not be repeated as the accusations may probably now magically disappear, now capitalism has got what it wanted’ (post, 15 December 2019).
- ‘Had Jeremy Corbyn and the Labour Party pulled up the drawbridge and nipped the bogus AS accusations in the bud in the first place we would not be where we are now and the fifth column in the LP would not have managed to get such a foothold ... the Lobby has miscalculated ... The witch hunt has created brand new fightback networks ... The Lobby will then melt back into its own cesspit’ (post, date unknown).

The Labour Party received a number of complaints about Pam Bromley’s conduct.

Labour Party members told us that Pam Bromley’s conduct, including the Facebook posts above, contributed to a hostile environment in the Labour Party for Jewish and non-Jewish members, and that much of that hostile environment was online.

Labour Party complaint handling

Pam Bromley was administratively suspended on 4 April 2018, following an article in The Times on 3 April 2018. This was almost a year after her posts had been brought to the attention of the Governance and Legal Unit in May 2017. By separate decisions in March 2019 and February 2020, the NCC found complaints relating to the above matters against Pam Bromley proven. She was expelled from the Labour Party in February 2020.

Our findings

We find that the Labour Party committed unlawful harassment through the actions of its agent, Pam Bromley, contrary to section 101(4)(a) of the Equality Act 2010, for the following reasons:

- **The Labour Party was responsible for Pam Bromley's actions as an agent of the Party in her role as a local councillor in Rossendale.**

When posting on her Facebook account, we consider that Pam Bromley was acting in the course of her authorised functions. Pam Bromley's Facebook profile identified her as a 'Labour Party member/councillor for Corbyn' and her profile picture, at least for part of the period covered by the posts above, included the words 'Jeremy Corbyn Keep the Faith'. To make at least one of the posts above, Pam Bromley used the Facebook page 'Cllrbromley Pam'.

The Labour Party disputes the extent of its responsibility for the acts of its local councillors, which it says is limited to carrying out the responsibilities given to them by the Labour Party Rule Book. For the reasons we set out in Annex 3, we consider that Pam Bromley's conduct fell within her express or implied authority as a Labour Party local councillor.

We therefore find the Labour Party responsible for this conduct.

- **We find that Pam Bromley's comments were unwanted conduct related to Jewish ethnicity, which, whether viewed individually or together with other relevant acts of Labour Party agents, had the effect of harassing Labour Party members.**

One of the social media posts used an obviously antisemitic trope, namely that Jewish people control the world's financial system. In her response to this investigation, Pam Bromley said that she was making general criticisms about capitalism and a legitimate political argument. In our view, this post goes beyond legitimate comment, referring to antisemitic Nazi propaganda.

Some of Pam Bromley's posts suggested that complaints about antisemitism in the Labour Party had been fabricated. We recognise Pam Bromley's right, under Article 10 of the ECHR, to express opinions about her own experience of the presence or scale of antisemitism in the Labour Party, within the bounds of the law, as we explain in Chapter 3. However, her posts go beyond this by repeatedly saying that allegations of antisemitism were fabricated.

Some of Pam Bromley's social media posts suggested that Jewish people were engaged in a conspiracy for control of the Labour Party, which we consider to be an antisemitic trope (for example, the reference to a 'fifth column').

The Labour Party received a number of complaints about Pam Bromley's conduct on social media. Labour Party members told us that her conduct, including the Facebook posts above, contributed to a hostile environment in the Labour Party for Jewish and non-Jewish members.

We therefore consider that the posts had the effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for members, and prospective members, of the Labour Party, particularly those who were Jewish.

In finding that the Labour Party committed unlawful harassment through the actions of its agents, contrary to section 101(4)(a) of the Equality Act 2010, we have taken account of the evidence we received that the individual acts of harassment by its agents amounted to conduct creating a hostile environment for Labour Party members.

Annex 3: Legal annex

In this annex, we explain:

- when the Labour Party is responsible for the conduct of its agents, and
- the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism and its impact on our investigation.

The Labour Party's responsibility for the acts of its agents

Under the Equality Act 2010, the Labour Party is legally responsible for unlawful conduct carried out by its agents in the course of their authorised functions or duties.²⁷

For a person to act as an agent of the Labour Party, they must:

- be carrying out authorised functions, and
- have some authority to represent the Labour Party in relation to third parties.

These functions or duties may be given to them explicitly, for example, by the Labour Party Rule Book, or they may be implied.

Conduct by an agent will be done with implied authority when it is necessary for the performance of, or is incidental to, the ordinary role that the agent performs.

For example, an MP gives a statement to the press in support of a political initiative announced by their party. This is incidental to their ordinary role as an MP and will be done with the implied authority of the party.

²⁷ The law of agency in this context is explained in two Court of Appeal cases: *Ministry of Defence v. Kemeh* [2014] IRLR 377 and *Unite the Union v. Nailard* [2018] IRLR 730.

There is no ‘reasonable steps’ defence for agents. This means it does not matter if the Labour Party took steps to prevent the agent from acting unlawfully, for example, by prohibiting antisemitic conduct under its rules.

A person will not be acting as an agent where they acted outside the scope of their authority (in other words, they did something so different from what the Labour Party authorised them to do that they could no longer be thought of as acting on the Party’s behalf). However, if the agent has authority to do an act, then the Labour Party is responsible for that act, even if the agent carries it out in an unlawful or discriminatory way, or in a manner contrary to the Party’s rules.

The Labour Party’s agents

We consider that the following individuals may, in principle, act as agents of the Labour Party when carrying out their authorised functions or duties. This is not intended to be an exhaustive list:

- members of the Parliamentary Labour Party, such as MPs and peers
- members of a local authority Labour group, such as Labour Party councillors
- members of the National Executive Committee (NEC) and National Constitutional Committee (NCC)
- Party officers and statutory officers detailed in chapter 1, clause VII of the Labour Party Rule Book, such as the General Secretary
- officials and / or members of the executive committees of a Constituency Labour Party (CLP), Branch Labour Party (BLP), or Young Labour
- Labour Party candidates at a general or local election
- members of regional bodies, and
- elected mayors or police commissioners.

The Labour Party is not legally responsible under the Equality Act 2010 for acts of members who are not employees or agents. In general, the actions of ordinary Labour Party members do not give rise to a relationship of agency unless they hold a particular office.

The Labour Party accepts that the individuals above are authorised to act as its agents when they are carrying out the responsibilities given to them by the Labour Party Rule Book, whether stated explicitly or implied.

Responsibility for unlawful acts of MPs and local authority Labour group councillors

As explained above, the Labour Party accepts that it may be responsible for the individual conduct of MPs and local authority Labour group councillors as its agents when they are carrying out the responsibilities given to them by the Labour Party Rule Book, whether stated explicitly or implied. These individuals represent the Labour Party in campaigning, community and engagement work, contacting local Party members and organisations, interacting with the NEC, and in any acts necessary, or usually incidental, to do those acts.

We consider that speaking in public or to the media, or, in principle, making social media posts (which we cover further below), is included in the authority to represent the Party in campaigning, community and engagement work. This authority is given to elected members by the Labour Party Rule Book. Alternatively, such conduct is a necessary part of, or incidental to, those acts and falls within their implied authority.

Responsibility for unlawful acts of elected Party officials

The Labour Party accepts that it may be responsible for the individual conduct of elected Party officials as its agents, including NEC members and officials of its BLPs and CLPs. However, it says that it is only responsible when they are carrying out the responsibilities given to them by the Labour Party Rule Book.

The Labour Party Rule Book gives the NEC the function of upholding and enforcing the constitution and standing orders of the Labour Party.²⁸ Two of the NEC's main purposes are:

1. to win elections and maintain the support of voters, and
2. to maintain a healthy Labour Party at all levels.²⁹

When NEC members speak in public or to the media about disciplinary matters in the Labour Party, we consider that this conduct falls within their authority as an elected member of the NEC.

²⁸ Chapter 1, clause VII.3.A.

²⁹ Chapter 1, clause VII.2.B and C.

As we explain in Annex 2, we find that Ken Livingstone, as an NEC member, was acting as an agent of the Labour Party in the specific circumstances identified. The Labour Party also accepts this in its representations.

Responsibility for the acts of agents on social media

The express or implied authority given to an agent by the Labour Party may, in principle, include making social media posts. Such conduct may be necessary for the performance of, or be incidental to, the agent's role.

Therefore, where conduct is within an individual's authority as an agent of the Labour Party, it does not matter that the conduct took place on social media unless the social media posts were made in a purely private capacity (not as part of the agent's authorised functions).

If specific social media posts made by an agent go against Party rules, it is no answer for the Labour Party to say that it did not give its agent authority to discriminate. It is enough if the agent has authority to do an act that is capable of being carried out in an unlawful or discriminatory manner.³⁰ We therefore consider that discriminatory social media activity may be attributable to the Party if it takes place in the course of authorised conduct by its agents.

We consider that some or all of the following factors may be relevant in establishing whether a social media post was made in the course of an authorised function or in a purely private capacity:³¹

- the social media account is used for purposes associated with the Labour Party
- the social media account is public, or friends or followers of a private social media account include colleagues or members of the Labour Party
- the social media post refers to the Labour Party or its members
- the individual who is posting identifies themselves as a member of the Labour Party or one of its constituent parts, and / or

³⁰ See, for example, *Bungay v Saini* [2011] UKEAT/0331/10.

³¹ See *Smith v Trafford Housing Trust* [2012] EWHC 3221; *Mason v Huddersfield Giants Ltd* [2013] EWHC 2869; *Game Retail Ltd v Laws* (UKEAT/0199/14); *Forbes v LHR Airport Ltd* (UKEAT/0174/18); and *Monir v Wood* [2018] EWHC 3525.

- an appearance that the post may be condoned by the Labour Party (for example, likes or retweets by senior members).

We conclude that, depending on the particular facts, the Labour Party may be responsible for the conduct of its agents on social media.

The International Holocaust Remembrance Alliance (IHRA) definition of antisemitism

In 2016, the Government adopted the International Holocaust Remembrance Alliance (IHRA) non-legally binding 'Working Definition of Antisemitism':

Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.

The IHRA also provides illustrative and contemporary examples of antisemitism. Some concerns have been raised about aspects of the IHRA approach. We note the approach of the Home Affairs Select Committee, namely that it is not antisemitic to hold the Israeli government to the same standards as other liberal democracies, to criticise the Israeli government, or to take a particular interest in the Israeli government's policies or actions, without additional evidence to suggest antisemitic intent.

The IHRA definition is not legally binding. To identify any unlawful acts by the Labour Party we need to apply the definitions contained in the Equality Act 2010. This is the approach that we have taken throughout this investigation. We do not comment on the IHRA definition for other purposes.

We are satisfied that the unwanted conduct we identify in Annex 2 meets the definition of harassment without reference to the IHRA definition and examples. But we are also satisfied that it would meet the IHRA definition and its examples of antisemitism.

Annex 4: Recommendations from previous reports that are not implemented fully

In this annex, we set out the relevant recommendations from previous reports that the Labour Party has not implemented adequately. We also provide a reference to where we discuss these in our report. In doing so, we make no comment about the scope and rigour of the previous reports, as each had different terms of reference to this investigation.

Previous recommendations

Antisemitism in the Labour Party was the subject of three previous reports that were published in 2016, namely the Chakrabarti, Royall and Home Affairs Select Committee (HASC) reports. As part of this investigation, we have considered these reports and the recommendations made in them.

The Labour Party has implemented, in full or in part, some of the recommendations made in these previous reports. For example, the Labour Party recruited a general counsel / solicitor in line with the recommendation made in the Chakrabarti report, and it has also used external legal advice, although both of these recommendations were only acted on two years after the report was published.

However, there are other recommendations that the Labour Party has not implemented to a satisfactory standard. We have not listed every potential instance of non or partial implementation of previous recommendations. We have focused on the previous recommendations most relevant to this investigation.

Previous recommendations that have not been implemented fully

The following recommendations have not been implemented to a satisfactory standard.

Complaint handling and process

- In 2016, the Chakrabarti report recommended, in relation to antisemitism complaints, that the Labour Party should adopt a 'readily accessible complaints procedure explaining with sufficient clarity how and to whom complaints are to be made'. The Labour Party has not published a comprehensive antisemitism complaints procedure in line with this recommendation. See Chapter 6.
- The Chakrabarti report highlighted the importance of recording the identity of complainants. It recommended that genuine aftercare should be given to individuals, as well as updates on how the complaint is progressing. The Labour Party has not implemented this process adequately. See Chapter 6.
- The Chakrabarti report noted the importance of making sure that respondents are clearly informed about the allegations made against them, unless there are exceptional reasons for not doing so. We found no evidence of a clear policy from the Labour Party outlining the rights of respondents in line with this recommendation. See Chapter 6.

Training

- In 2016, the Chakrabarti report recommended that the Labour Party should provide appropriate training for all staff and members involved in its investigation and disciplinary process. The Labour Party has not implemented this recommendation adequately. See Chapter 9.
- In 2016, the Royall report recommended that there should be training on antisemitism for officers of all Labour clubs. It also recommended that the Labour Party should provide leadership and training on equality issues, including making sure that post-holders throughout the Party have access to the necessary materials and guidance. The Labour Party has not implemented these recommendations in relation to antisemitism. See Chapter 9.

- The Chakrabarti report recommended that the Labour Party should assess education and training needs across the Party to offer practical and enriching values-led programmes to members with varying needs and interests. The Labour Party has not implemented this recommendation. See Chapter 9.

Resourcing

- In 2016, the Royall report recommended that ‘the national complaints procedure should be properly resourced so that it can deal effectively with complaints of antisemitism’. See Chapter 9.
- In the same year, the Chakrabarti report made recommendations for appointing counsel or other staff lawyers, and expert staff who are trained and equipped to work on matters of discipline. See Chapter 9.
- Despite these recommendations, the Labour Party did not take action to improve antisemitism complaints resourcing until 2018. Overall, we found that the Party has taken recent steps to improve resourcing of antisemitism complaint handling, but progress has been slow. See Chapter 9.

Sanctions

- The Chakrabarti report recommended a comprehensive complaints procedure. Clear published guidance on available sanctions is part of a comprehensive complaints procedure – without such guidance we do not consider that the Labour Party has implemented this recommendation. See Chapter 7.
- In 2016, the HASC report recommended that there should be greater transparency in disciplinary proceedings. It recommended that public statements should be published alongside every expulsion, or reinstatement to the Labour Party following a suspension, after any investigation into suspected antisemitism. This Labour Party has not implemented this recommendation. See Chapter 7.³²

³² As we explain in Chapter 7, we recognise concerns raised by the Labour Party about data protection issues in relation to compliance with this recommendation and we make an alternative recommendation taking account of those concerns.

Annex 5: The structure of the Labour Party

The Labour Party is an association under the Equality Act 2010, because it has at least 25 members and admission to its membership is regulated by the Party's rules.³³

The Labour Party Rule Book acts as a contract between its members and is updated each year. The current version at the time of publication is the Rule Book 2020.³⁴

The Rule Book sets out the structure of the Labour Party. For this report, the relevant parts of the structure are:

- The **National Executive Committee (NEC)**, which is 'subject to the control and directions of Party conference' and is 'the administrative authority of the Party'.³⁵ The NEC's functions include upholding and enforcing the constitution and rules of the Party, and ensuring that Party meetings and events are conducted in a friendly and orderly manner without discrimination or harassment.³⁶
- The **Parliamentary Labour Party (PLP)**, which includes Labour candidates elected to Parliament as MPs and peers in the House of Lords.³⁷

³³ Section 107(2), Equality Act 2010.

³⁴ See ['Labour Party Rule Book 2020'](#).

³⁵ Chapter 1, clause II.1.

³⁶ Chapter 1, clause VIII.3.A and E.

³⁷ Chapter 5, clause II.3.

- **Constituency Labour Parties (CLPs)**, which are typically made up of neighbouring Branch Labour Parties coming together. They cover a parliamentary constituency and have the power to select the Labour parliamentary candidate for that area.
- **Branch Labour Parties (BLPs)**, which operate at a community level and are usually made up of two or three ward areas (which elect local councillors).
- The **Labour group** on a local authority, which is formed by Labour candidates elected as local authority members. These groups are subject to the rules in chapter 13 of the Rule Book.
- **National and regional bodies:** in Scotland and Wales there is a Scottish and Welsh executive and Party office. In the English regions there are regional boards and Party offices.³⁸

The work of the Labour Party is under the direction and control of **Party conference**, where decisions on Party issues and policies are debated.³⁹ Some Party members can attend Party conference automatically due to their elected position – for example, PLP members and members of the local authority Labour group. CLPs also have the right to send delegates.

The **Party officers** include the **Leader** and the **General Secretary**.⁴⁰

The Leader of the Labour Party is also the leader of the PLP. They appoint all frontbench positions and report on the work and state of the Labour Party to the Annual Conference. They also report regularly to the NEC (of which they are a member), the National Policy Forum and other bodies.

³⁸ Chapter 1, clause II.2.D.

³⁹ Party conference is itself subject to the constitution and standing orders of the Party). See the Labour Party Rule Book, chapter 1, clause VI.1.

⁴⁰ Chapter 1, clause VII.1.A and C, respectively.

The General Secretary is also secretary to the NEC and may, where considered appropriate by the NEC, carry out all of its powers.⁴¹ The General Secretary can delegate their functions to be carried out by appropriate officers or representatives of the Labour Party.⁴²

The Rule Book also provides for the existence of the **National Constitutional Committee (NCC)**.⁴³ The NCC has 25 elected members. Its main function is to make decisions on disciplinary matters, which are presented to it by officers of the Labour Party or CLPs.

⁴¹ Chapter 1, clause VIII.5.

⁴² Chapter 1, clause VII.1.C.ii.

⁴³ Chapter 1, clause IX.1.

Annex 6: Terms of reference

In accordance with paragraph 3 of Schedule 2 to the Equality Act 2006.

Statutory Investigation under section 20 and Schedule 2 of the Equality Act 2006 into The Labour Party by the Equality and Human Rights Commission.

Background

1. The Commission suspects that The Labour Party ('the Party') may have itself, and/or through its employees and/or agents, committed unlawful acts in relation to its members and/or applicants for membership and/or associates.

Scope of investigation

2. The investigation will consider whether the Party carried out such unlawful acts.
3. The investigation will need to be effective but proportionate. The investigation will focus on the Party's response to a sample of complaints of alleged unlawful acts that have taken place since 11 March 2016. However, the investigation may consider the Party's response to such complaints that have taken place prior to this date, if it is considered necessary and appropriate.
4. In examining the evidence the Commission will look at such issues as it considers appropriate, which may include any or all of the following:
 - a. Whether unlawful acts have been committed by the Party and/or its employees and/or its agents
 - b. The steps taken by the Party to implement the recommendations made in the reports on antisemitism by Baroness Royall, the Home Affairs Select Committee and in the Chakrabarti Report
 - c. Whether the Rule Book and the Party's investigatory and disciplinary processes have enabled or could enable it to deal efficiently and effectively with complaints of race and/or religion or belief discrimination and racial harassment and/or victimisation, including whether appropriate sanctions have been and/or could be applied; and
 - d. Whether the Party has responded to complaints of unlawful acts in a lawful, efficient and effective manner.

5. The Commission will publish a report of its findings and may make recommendations in accordance with Schedule 2 paragraph 16 of the 2006 Act.

Communications concerning this investigation

6. Any communications concerning this investigation may be sent in confidence to LPI@equalityhumanrights.com

Interpretation

7. For the purposes of these terms of reference the following definitions apply:
 - a. 'The 2006 Act' means the Equality Act 2006
 - b. 'The 2010 Act' means the Equality Act 2010
 - c. 'The Labour Party' means the unincorporated association called The Labour Party governed by the Rule Book including those component parts of its structure referred to at Paragraphs 1 and 2 of Clause II, and Clause IX of Chapter 1 of the Rule Book 2019 (for the avoidance of doubt this includes the NEC, NCC, CLPs and BLPs) but excluding organisations affiliated to it
 - d. 'The Rule Book' means the Labour Party Rule Book operative at the material time
 - e. 'The Commission' means the Commission for Equality and Human Rights (commonly known as the Equality and Human Rights Commission)
 - f. 'Agent' has the same meaning as in the 2010 Act
 - g. 'Associate' has the same meaning as in the 2010 Act
 - h. 'Association' has the same meaning as in the 2010 Act
 - i. 'BLP' means a branch of a CLP as defined in the Rule Book
 - j. 'CLP' means a Constituency Labour Party as defined in the Rule Book
 - k. 'Employee' has the same meaning as in the 2010 Act
 - l. 'Member' has the same meaning as in the 2010 Act
 - m. 'NCC' means The Labour Party's National Constitution Committee as defined in the Rule Book
 - n. 'NEC' means The Labour Party's National Executive Committee as defined in the Rule Book
 - o. 'Protected act' has the same meaning as in the 2010 Act
 - p. 'Protected racial characteristic' means Jewish ethnicity
 - q. 'Protected religion or belief characteristic' means Judaism
 - r. 'Race discrimination' means direct discrimination or unjustified indirect race discrimination (as those terms are defined in the 2010 Act) because of the protected racial characteristic

- s. 'Religion or belief discrimination' means direct discrimination or unjustified indirect religion or belief discrimination (as those terms are defined in the 2010 Act) because of the protected religious characteristic
 - t. 'Harassment' means harassment (as that term is defined in the 2010 Act) where the harassment relates to the protected racial characteristic
 - u. 'Victimisation' means victimisation (as that term is defined in the 2010 Act) where the protected act relates to the protected racial characteristic and/or the protected religious characteristic
 - v. 'Unlawful acts' means race discrimination and/or racial harassment and/or religion or belief discrimination and/or victimisation, as defined herein.
8. In the course of the investigation, the Commission may have regard to the International Holocaust Remembrance Alliance's working definition of antisemitism and associated examples, while recognising it is a non-legally binding definition.

Annex 7: How we carried out the investigation

Our legal powers

The framework for an investigation is set out in section 20 and schedule 2 of the Equality Act 2006.

[For more information on how we use our legal powers, see our litigation and enforcement policy.](#)

Providers of evidence to the investigation

The Labour Party provided us with a sample of complaint files, together with general information, legal submissions, documents and signed statements from the Labour Party's General Secretary. We received the first evidence from the Labour Party in April 2019, and the last in August 2020.

We also received evidence and, in some cases, legal submissions from:

- the Jewish Labour Movement (JLM)
- Campaign Against Antisemitism (CAA)
- Jewish Voice for Labour (JVL)
- a number of whistleblowers, and
- other individuals and organisations who contacted us via our dedicated investigation mailbox, which was open to the public for submitting representations.

We are grateful to everyone who provided evidence to the investigation.

How we carried out the investigation

Our investigation was based primarily on documentary evidence.

To assess whether the Labour Party had committed unlawful acts of discrimination, harassment, or victimisation in relation to its members, we analysed a sample of 70 complaints of antisemitism made against Labour Party members.

This sample included:

- 58 complaints chosen by us, from over 220 complaints identified in:
 - submissions from the JLM and CAA
 - a report by Professor Alan Johnson, 'Institutionally Antisemitic: Contemporary Left Antisemitism and the Crisis in the British Labour Party' (March 2019), and
 - information in the public domain, and
- 12 complaints put forward by the Labour Party.⁴⁴

To narrow down the sample, we excluded:

- incidents of alleged antisemitism not reported to the Labour Party
- complaints that were outside the timeframe of our terms of reference, and
- 'member-on-member' conduct when it was unlikely that the Labour Party would be responsible for the conduct under the legal provisions we explain in Annex 3.

Most of the sample related to conduct on social media, reflecting the predominance of that type of complaint overall. However, it also included conduct at meetings and events and comments made to the media.

We assessed each complaint using the legal test set out in the Equality Act 2010. We talk about this in more detail in chapters 2 and 3 and annexes 2 and 3.

We also analysed each complaint, and all of the evidence submitted to the investigation, to consider the issues identified in the terms of reference (see Annex 6), and to make findings and recommendations on those matters. In particular, we looked at:

⁴⁴ The Labour Party has said it submitted its own sample by selecting a range of cases that it thought demonstrated a fair overview of the successes, and past weaknesses, in its disciplinary process.

Investigation into antisemitism in the Labour Party

- whether unlawful acts have been committed by the Labour Party and / or its employees and / or its agents
- the steps taken by the Party to implement the recommendations made in the reports on antisemitism by Baroness Royall, the Home Affairs Select Committee and Baroness Chakrabarti
- whether the Rule Book and the Party's investigation and disciplinary processes have enabled, or could enable, it to deal efficiently and effectively with complaints of race and / or religion or belief discrimination, and racial harassment and / or victimisation, including whether appropriate sanctions have been and / or could be applied, and
- whether the Party has responded to complaints of unlawful acts in a lawful, efficient and effective manner.

In determining whether an unlawful act had been committed, we adopted the civil standard of proof, which is on the balance of probabilities, and applied the principles set out in the Equality Act 2010.

We received a large amount of written evidence, which we reviewed carefully. We tested it with detailed requests for further information from the Labour Party and individual witnesses as appropriate. We took into account the replies given to those requests. In light of the breadth and depth of this written material, we were satisfied that oral evidence was not needed to ensure that the investigation was fair or proportionate. Further, we were satisfied that we could reach findings without needing to hold an oral hearing.

Contacts

This publication and related equality and human rights resources are available from [our website](#).

Questions and comments regarding this publication may be addressed to: correspondence@equalityhumanrights.com. We welcome your feedback.

For information on accessing one of our publications in an alternative format, please contact: correspondence@equalityhumanrights.com.

[Keep up to date with our latest news, events and publications by signing up to our e-newsletter.](#)

EASS

For advice, information or guidance on equality, discrimination or human rights issues, please contact the [Equality Advisory and Support Service](#), a free and independent service.

Telephone 0808 800 0082

Textphone 0808 800 0084

Hours 09:00 to 19:00 (Monday to Friday)

10:00 to 14:00 (Saturday)

Post FREEPOST EASS HELPLINE FPN6521

© 2020 Equality and Human Rights Commission

Published October 2020

ISBN: 978-1-84206-831-1



**Equality and
Human Rights
Commission**