

EHRC investigation into the Labour Party – evidence of Jewish Voice for Labour.

Submitted 30 July

Overview of Jewish Voice for Labour

1. Jewish Voice for Labour (JVL) was established in 2017 by a group of Jewish members of the Labour Party, with the objective of creating a distinct forum for socialist and social democratic Jews who do not feel represented by the Jewish Labour Movement (JLM) which “organise[s] inside the World Zionist Organization”. JVL now has a substantial membership with full members in a quarter of all constituency Labour Parties, and has deep roots in many Jewish communities. JVL is firmly committed to fighting all forms of racism and uses its collective learning to help educate both the Party membership and the general public on how to identify and tackle antisemitism. Please see *appendices 1, 2 and 3* for our Statement of Principles, our constitution and our joint statement with Free Speech on Israel (FSOI) on antisemitic misconduct.
2. Our wide and deep collective knowledge of the Labour Party, including in recent years of its disciplinary processes, makes us highly sceptical of the claim that the party has committed unlawful acts of discrimination. We are guided in our approach by our strong support for the Equality Acts and opposition to racism and racial discrimination in all its forms. Our members and supporters include lawyers, academics and others with long experience and expert knowledge of human rights and anti-discrimination law.

Executive Summary

3. JVL has taken a close interest in the recent controversy about the response of the Labour Party to allegations of antisemitism and we believe our experience should be of assistance to the EHRC (‘the Commission’) in its investigation. We welcome an investigation because an independent and expert review of this controversy, which in our opinion has been fuelled by partisan and politically motivated interventions, is badly needed.

4. In addition, JVL is well placed to comment on the Labour Party's processes having learnt from our members' experiences that far from there being discrimination against Jews in the Party, there has been a determined attempt by the Party to deal with incidents of antisemitism. We have also observed that the processes have been greatly improved since April 2018 as many of the recommendations of the Chakrabarti report have been implemented.
5. Our submission, with its detailed appendices, illustrates the seriousness with which allegations of antisemitism have been treated in the Labour Party and outlines the political context, which cannot be ignored.
6. We raise several legal points in our submission and we have attempted to answer the specific points in Para 4 of the Terms of Reference.

Our experience as Jewish Labour Party members

7. As stated above, we do not believe that the controversy can be properly analysed without taking into account the appropriate political context. Our experience is that in the years since Jeremy Corbyn became leader of the Labour Party, many Jews have chosen to join or re-join the Labour Party. This is, for example, illustrated by the testimonials from 143 Jewish members of the Party which were submitted to the Commission, expressing contentment with their membership of the Party and in many cases indignation at suggestions that there is a particular problem with antisemitism within the Labour Party. (*appendix 4 and also short videos by "[Just Jews](#)"*). This is in marked contrast to an unprecedented volume of allegations of antisemitism which have been made against members or others assumed to be members of the party.
8. There is disquiet among many JVL members that many antisemitism-related complaints in the period under review were products of an organised effort to expose, solicit and submit such complaints. See for example the JLM letter to its members of 10th July 2019, issued just after the airing of the BBC Panorama programme "Is Labour Anti-Semitic?" in which many JLM members appeared anonymously. (*appendix 5*)
9. Full (Jewish) members of JVL and other Jews who support our perspective on this issue, are unhappy that the suggestion that antisemitism is a problem peculiar to, let alone, more prevalent in the Labour Party than other political Parties has persisted against the evidence for example: the article by A. Maddison (statistician) and J. Coulter. (*appendix 22*) Also the heavy pressure put on the Labour Party, singled out from other political parties, is masking the documented growth of antisemitism on the far right and, to an extent in wider society.

Preliminary Observations

10. The following represents the response of JVL to the questions posed by the EHRC Terms of Reference. This is followed by our general observations on antisemitism in the Labour Party, a conclusion and the index to the Appendices.
11. Our understanding of the scope and focus of the investigation derives from two documents: The Terms of Reference of an Investigation into the Labour Party dated 28 May 2019 ("TOR") and the Commission's document entitled 'Summary' of 15 July 2019, which states that it contacted the Labour Party after receiving a number of complaints about allegations of antisemitism in the Labour Party. The Summary asserts that the investigation was opened after consideration of the Party's response. We have not been given access to these complaints or to the Party's response. We have invited the Commission to make these available to us but have so far not received a response. We will seek to add to this submission at a later date should we obtain access to these documents and are granted the appropriate extension to the deadline of 31st
12. We draw the Commission's attention to section 3(a) of Schedule 2 to the Equality Act 2006. This requires the Commission in preparing its Terms of Reference to specify not only the person or persons to be investigated but also the nature of the unlawful act (or acts), which the Commission suspects. We submit that the TOR of this investigation manifestly fails to do this and is, therefore, defective and in breach of the statutory requirements imposed on the Commission. In order to comply we submit that the Commission must without delay repair these defects and publish the nature of the unlawful act or acts which the Commission suspects. Without that information, all respondents are denied the ability to complete their representations.
13. In addition, the TOR reveals a number of limitations in the scope of the investigation to which we now draw attention.

"Whether unlawful acts have been committed by the Party and/or its employees and/or its agents" (Paragraph 4a EHRC TOR)

14. The investigation is carried out under the authority of section 20 and Schedule 2 of the Equality Act 2006. Section 20 empowers the Commission to investigate whether a person has committed an unlawful act (or acts) but only acts which are in contravention of the Equality Act (see s.34). The definition in paragraph 7v of the TOR acknowledges this and limits the subject matter to race or religious discrimination, i.e. on the ground of

Jewish ethnicity or Judaism. (see paras.7p and q). The only such acts which could be relevant to this investigation are acts of discrimination on those grounds. Paragraph 1 of the TOR adds a further limitation: to acts in relation to Labour Party members and/or applicants for membership and /or associates.

15. There is a further crucial limitation on the Commission's investigatory powers and the scope of this investigation. It cannot be directed at antisemitism in general. This is highlighted by the fact that the TOR properly make no reference whatsoever to antisemitism (except in para 8 in references to the IHRA definition). The importance of this point is that the Commission must take care to limit its investigation to acts which are not only antisemitic but are acts in breach of the Equality Act. The Labour Party may choose to treat some conduct as antisemitic and in breach of party rules which the Equality Act does not prohibit. For example, many comments on social media may be abusive and insulting to Jews or some Jews but are not unlawful. Or they may raise issues about Zionism.
16. A well-documented example of a Jew critical of Zionism being accused of being antisemitic was the allegation of antisemitism against the Israeli-born Jewish academic Moshe Machover for an article entitled 'Anti-Zionism does not equal anti-Semitism'. (See *appendices 6 and 7 together with appendices 9 and 23*) Accusations may also concern the equally difficult boundary between negative stereotypes and hatred. (*appendix 8*)
17. The Commission suspects that unlawful acts may have been committed but gives no indication whatsoever of what such acts may be. Pending further clarification, we can only surmise, on the basis of our experience and knowledge of such allegations as have been reported in the media and elsewhere, that they might, at worst, suggest that there have been inadequate, partial or inordinately delayed investigations by the Labour Party, or its employees or agents, into complaints of antisemitism made to the Party against other members. Where these are claimed to be unlawful acts, the only basis appears to be that the Party has discriminated against Jews in the provision of its services to its members in breach of s.29 of the Equality Act 2010. The Commission must consider carefully whether, on this basis, the complaints of unlawful discrimination by the Party, against its members, fall within the scope of the Equality Act at all.
18. As with the discussion of IHRA in *appendices 10, 11 and 12*, there is the issue of Free Speech in relation to political discourse. Here is an excerpt from *Fraser v University and College Union* (Employment Appeals Tribunal, Case Number: 2203290/2011, 2013) Justice Snelson, in his judgement at Para 156, ruled:

“... context is critical. The Claimant is a campaigner. He chooses to engage in the politics of the union in support of Israel and in opposition to activists for the Palestinian cause. When a rugby player takes the field he must accept his fair share of minor injuries. . . Similarly, a political activist accepts the risk of being offended or hurt on occasions by things said or done by his opponents (who themselves take on a corresponding risk). These activities are not for everyone. Given his election to engage in, and persist with, a political debate which by its nature is bound to excite strong emotions, it would, we think, require special circumstances to justify a finding that such involvement had resulted in harassment. . . Secondly, the human rights implications of the claim must not be overlooked. As we have noted, Article 10(2) of the Convention countenances limitations on freedom of expression only to the extent that they are necessary in a democratic society. The numerous authorities under domestic and Community jurisprudence ... emphasise repeatedly that freedom of expression must be understood to extend to information and ideas generally, including those which offend, shock or disturb society at large or specific sections of it”.

19. The Commission’s acceptance of the unincorporated private status of the Labour Party can also be inferred from the fact that the TOR includes no claim that the Party is subject to the Public Sector Equality Duty. The Labour Party’s own rules prohibit racial discrimination and make it a disciplinary offence. The Party has long established a disciplinary process for the purpose of investigating, adjudicating, and in the event of an adverse finding, determining an appropriate penalty. During the period covered by this investigation it has updated its rules and processes. They apply equally to all members regardless of race or religion
20. Insofar as the Labour Party’s disciplinary processes have been in one or another respect defective, this alone would not amount to unlawful discrimination. From our own experience, there were defects in the Party’s handling of complaints, but these related to a broad range of issues, particularly in the period before the change of General Secretary (GS) in April 2018. If the claim is that the processing of antisemitism-related complaints had a disproportionate negative impact on complainants, our experience is that our Jewish members argue that they suffered as the subjects of such complaints (see Para 31 below). Without evidence of discrimination we are at a loss to see how any unlawful act by the party within the scope of the investigation could be established.
21. Paragraph 4 of the TOR lists four examples of issues which may be looked at. The first of these is whether unlawful acts have been committed. Again, we point out that the only unlawful acts that fall within the permitted scope of the investigation are the acts in breach of the Equality Act, mentioned

earlier. We also repeat that these are the only matters which the Commission has power to investigate. There is no legal basis for extending the investigation into other areas, except to the extent that they provide evidence of unlawful acts. It is incumbent on the Commission at least to state, in the TOR, the nature of any unlawful acts which it suspects may arise from the matters described in these sub-paragraphs. It is in breach of section 3(a) of Schedule 2 of the Equality Act 2006 by failing to do so.

**“EHRC TOR 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”
(Paragraph 4b EHRC TOR)**

22. At the outset, we wish to express our concern at the implied suggestion in the TOR that the reports on antisemitism by Baroness Royall, the Home Office Select Committee (HASC) and the Chakrabarti Inquiry have a bearing on whether the Labour party has committed unlawful acts of discrimination. We understand that the Labour Party has accepted the finding of Baroness Royall, commented on the HASC report and accepted in full the report of the Chakrabarti Inquiry. However, in our submission, the Party's response to these reports (as is the case with the IHRA definition) throw no light on the only question in the investigation, namely whether the Labour Party has committed unlawful discriminatory acts. If, however, the Commission intends to look at these reports, we believe it essential that they should be aware of their shortcomings and deficiencies or, in the case of the Chakrabarti Report, the delays in its implementation. We are therefore including in this submission a comment on each of them.
23. Our comment on the Royall report (*appendix 27*) shows that she found no evidence of antisemitism in the Oxford University Labour Club and that the helpful recommendations she made were taken up by Shami Chakrabarti.
24. We are critical of the Report of the Home Affairs Select Committee (HASC) at *appendix 13*. Please see further the article in 'Politics Home' at *appendix 14*); and the HASC Report "dismisses the Shami Chakrabarti Report primarily on the basis of innuendo without taking proper account of the reputation for integrity of its Chair and Vice Chairs –and by assessing the Report against a judicial inquiry expectation which it could not and was not expected to meet". (from *appendix 13 – David Plank*)
25. As the focus of the recommendations within the Chakrabarti Inquiry related to the Party's investigatory and disciplinary processes, we include our comments on the steps taken to implement its findings in the section

immediately below. This was a report that provided a practical and ethical guide to a way forward. (See *appendix 15*)

“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” (Paragraph 4c EHRC TOR)

“Whether the Party has responded to complaints of unlawful acts in a lawful, efficient and effective manner”

(Paragraph 4d EHRC TOR)

26. In accordance with its founding aims and principles (*appendix 1*), JVL has taken a particular interest in scrutinising the work of the Labour Party’s disciplinary process. While complying with the Party’s guidelines on confidentiality, JVL has been assisting a number of individuals who have been investigated by the Party in relation to charges of antisemitism. In the interests of transparency, JVL notes that the individuals it has assisted include some of its own Jewish members, as well as others who are supporters. JVL’s participation in these cases gives it a unique external perspective on the adequacy of processes in place. This submission will focus on particular aspects of the disciplinary procedures which JVL officers have been able to observe from the cases it has assisted with.

27. JVL officers have, more recently, noticed significant improvements in both the speed with which disciplinary processes are taken to their conclusion and the manner in which investigations are conducted. In the immediate aftermath of the Chakrabarti Report and for nearly two years after its publication, little, if anything changed. However, improvements were observed when Jennie Formby became the General Secretary in April 2018. This tallies with recent statistics released by the Labour Party in relation to the number of allegations of antisemitism received in a comparable period in 2018 and 2019. (*appendix 16*) It is clear that processes are becoming more efficient. JVL officers have also observed fewer interim suspensions and are not aware of information regarding investigations being leaked to the media, which was commonplace prior to April 2018 and identified in the Chakrabarti Report. Indeed, so serious was this that several Labour Party members, caught up in this process, learned of their own suspensions from media reports even before they had received official notice from Party Head Office.

28. Our experience from reports of members and supporters is that delays have occurred in relation to other complaints under paragraph 2.1.8 of the Labour Party's Rule Book. JVL were indeed concerned, in the period before Ms Formby took office, that allegations of other forms of racism seem to have been overlooked or given inadequate attention. One such example is given in *appendix 17*, which also shows a lack of care and consideration shown to a Muslim person who, after making an accusation of racism, found himself accused of misconduct before his own complaint was investigated. Disturbingly, there is a concern, for example among black JVL members, that there is, in practice, a hierarchy of racisms, whereby the Party seems to be expected to give higher prominence to antisemitism than, for example, to Islamophobia or racism shown towards Black people.
29. Certain of the recommendations within the Chakrabarti Report remain unimplemented. In particular, JVL notes that Party members, against whom complaints are made, are not clearly informed of the allegations made against them, their factual basis and the identity of the complainant. The details of complaints continue to lack precision, such that the member is unclear of the basis upon which they are being investigated.
30. JVL officers are also aware of a number of long running cases where no clear timeline for dealing with the cases has been stated. JVL officers are aware of cases where investigations were commenced in 2016, but the member under investigation is still not aware of when their case will be concluded, or the reason for the delay. This is particularly troubling in light of evidence we have that some Party members have been the victims of vexatious complaints.
31. JVL officers note that in these cases a fair procedure and clear guidelines are likely to result in either no sanction or a sanction less than expulsion being applied to those against whom accusations have been made. *But without a fair process the lives and reputations of many members under investigation have been significantly harmed.* For example, many Labour Party members, Jewish Voice for Labour members among them, have been targeted by unwarranted allegations of antisemitism, including by the Campaign Against Antisemitism. (*appendix 18*)

General Observations regarding allegations of Antisemitism within the Labour Party

32. There has been a protracted political and media campaign in which allegations of antisemitism and the Labour Party's processes for dealing with it have become embroiled. Such allegations have often been

misreported, and some have been manifestly politically motivated. (See *appendices 18, 19 and 20*)

33. This media campaign has suggested that antisemitism within the Labour Party is pervasive, particularly severe, increasing, and/or officially sanctioned. None of these claims is substantiated by compelling evidence; on the contrary, what evidence does exist wholly refutes them. (See *appendices 21 and 22*)
34. This context of this oft repeated claim that antisemitism is a Labour Party problem has operated on a fundamental ambiguity that makes adjudicating claims of antisemitism difficult for any Party's disciplinary process. There exists considerable disagreement and divergence on the meaning of "Zionism" as well as on the relationship between opposition to "Zionism", and "antisemitism". Such disagreement prevails within the Jewish community as well as the Labour membership more broadly. (*appendix 23*)
35. Substantial evidence that there is no discrimination against Jews in the Party is provided by Antony Lerman's paper in the Appendix, which refutes the suggestion that there is institutional antisemitism in the Party. (*appendix 21*) We refer below (para. 36 and *appendix 24*) to the lack of evidence provided in the Panorama programme. In addition, most of the anonymised witnesses in that programme were officers of the Jewish Labour Movement (JLM; see e.g. para. 1 above). The JLM followed up the programme with a letter sent by email to their members **immediately** the programme ended, to reinforce its negative message and impact. (*appendix 5*)
36. As noted above, we have evidence that many Jewish Labour Party members, tending to be on the left of the Party, have been accused of antisemitism. Sam Matthews (previous Head of Disputes) referred, in various interviews on 11th July 2019, to confidential correspondence that was used for the BBC Panorama programme. (See *appendix 24 for reaction to that programme*) It emerged that staff at the Leader's Office were surprised at the number of Jews accused of antisemitism and Sam Matthews himself (in an interview with the Today Programme on Radio 4 on 11th July) noted a link between Jews being accused of antisemitism and Corbyn supporters. Relevant to this is a study of the fallout from the 2017 Party Conference. (*appendix 19*)
37. Our experience of the manner in which the Labour Party has responded to and managed such complaints is set out in, e.g., paras. 38 & 39 below. Significantly, we have seen no evidence of discrimination against Jews. This is important because the public perception of the party's processes has been influenced by most media coverage of the party, which evidence shows to be biased and inaccurate. (*appendices 19 and 20*)

38. In addition, just before Jennie Formby took over as General Secretary in April 2018, there seems to have been a concerted effort by some staff to make her job difficult by, for example, destroying files and leaking confidential information about other staff and about members subject to the process. (*appendices 25 and 26*) This is the background to the BBC Panorama programme referred to above which aired on 10th July. (*appendix 24*)

39. Certainly determining the extent of antisemitism in the Labour Party has not been easy for Party officials. In Paragraph 8 of the TOR it states that the Commission "may have regard to the International Holocaust Remembrance Alliance's working definition of antisemitism": we are not sure what this means in effect. We attach three appendices (*nos. 10, 11 and 12*) from two QCs and an academic (who describes himself as a "Zionist" and who is not a Labour Party member) that are among many serious and erudite critiques of the IHRA definition of antisemitism. The Labour Party has adopted the IHRA definition, subject to the need to preserve free speech in the discussion of Israel. However, as stated in the TOR, this is *nota* legally binding definition. Our own paper, written jointly with Free Speech on Israel, on antisemitic misconduct (*appendix 3*) and other papers in the Appendices, such as that by Maddison and Stern-Weiner on stereotypes and motivation (*appendix 8*), prove the value of education in addressing this serious issue, as recommended by the Chakrabarti report.

Conclusion

40. JVL has put a great deal of thought and work into this submission and its appendices. We trust that the Commission will give this due attention and, so benefit from the material we have provided.

41. We would, of course, be happy to meet with members of the Commission and its officers and, if requested, to answer any queries that our submission may generate.

42. We look forward to the outcome of the Inquiry.

Appendix list

We believe that the EHRC ought to seriously consider the detailed information in the appendices, as it reaches its findings.

Some of these articles are opinion pieces not necessarily fully endorsed by JVL but we include them to inform the Inquiry and to further illustrate that there is variety of opinions on this issue.

List of Appendices: (JVL's highlighted in bold)

Some of these appendices contain confidential material submitted to the EHRC and are therefore not available here. Most are available elsewhere on the web and are linked to below.

1. **Jewish Voice for Labour, 'Statement of Principles' (28 July 2017)**
2. **Jewish Voice for Labour, 'Constitution' (June 2019)**
3. **Jewish Voice for Labour and Free Speech on Israel, 'Declaration on What Is and What Is Not Antisemitic Misconduct' (24 September 2018)**
4. 143 Testimonies from Jewish Members of the Labour Party (August 2018)
5. Jewish Labour Movement, '[Panorama: racism laid bare](#)' (10 July 2019)
6. Moshe Machover, '[Anti-Zionism Does Not Equal Anti-Semitism](#)', Labour Party Marxists (21 September 2017)
7. Asa Winstanley, '[Israel Anti-Zionist Expelled from Labour amid Anti-Semitism Smear](#)', Electronic Intifada (4 October 2017)
8. Jamie Stern-Weiner and Alan Maddison, '[Stereotypes Should Be Discussed, Not Sanctioned](#)', Verso (19 July 2019)
9. Naomi Wayne, 'Jews, Antisemitism and the Law: Notes in Submission to the EHRC' [A revised version on this paper can be found [here](#).]
10. Geoffrey Robertson QC, '[Anti-Semitism: The IHRA Definition and its Consequences for Freedom of Expression](#)' (27 August 2018)
11. Hugh Tomlinson QC, '[Opinion](#)' on Adoption of the IHRA (8 March 2017)
12. Geoffrey Alderman, '[Why the Antisemitism Definition is Flawed](#)', Jewish Telegraph (12 July 2019)
13. David Plank, '["Antisemitism in the United Kingdom", House of Commons Home Affairs Committee, HC 136 –A Critique](#)' (2 November 2016)
14. Kevin Schofield and Josh May, '[Jeremy Corbyn Hits Back at Home Affairs Committee over Anti-Semitism Report](#)', Politics Home (16 October 2016)
15. David Rosenberg, '[There Is Another Way to Resolve Labour's Toxic Wrangles Around Complaints](#)', Rebel Notes (24 July 2019)
16. Statistics on Labour Disciplinary Hearings (2018-2019)
17. **Jewish Voice for Labour, 'Case Notes on a Labour Party Investigation'**
18. **Jewish Voice for Labour, CAA Briefing**
19. Jamie Stern-Weiner, '[Labour Party Conference or Nuremberg Rally? Assessing the Evidence](#)' (12 October 2017)
20. Justin Schlosberg and Laura Laker, '[Labour, Antisemitism and the News: A Disinformation Paradigm](#)' (September 2018)
21. Antony Lerman, '[The Labour Party, Institutional Antisemitism and Irresponsible Politics](#)', openDemocracy (21 March 2019)

22. Jonathan Coulter, Alan Maddison and Tim Llewellyn, '[Journalists! Check Your Evidence on Antisemitism](#)', Jewish Voice for Labour (May 2019)
23. Naomi Wayne and Miriam David, 'Being Jewish and Being Zionist: A Note for the EHRC Formal Investigation'
24. **Jewish Voice for Labour, 'Critical Assessment of BBC "Panorama" Programme, "Is the Labour Party Antisemitic?" '**
25. Jon Lansman, '[Jeremy Corbyn Pushed for Action on Antisemitism – But was Held Back by Bureaucracy](#)', LabourList (14 May 2019)
26. Alex Wickham, '[Leaked Emails Reveal Labour's Compliance Unit Took Months To Act Over Its Most Serious Anti-Semitism Cases](#)', BuzzFeed (11 May 2019)
27. Tony Booth and Jamie Stern-Weiner, 'Critical Notes on the Report into the Oxford University Labour Club by Baroness Janet Royall'

Signed by Jewish Voice for Labour Officers

- **(Cllr) Leah Levane and Jenny Manson, Co Chairs, Jewish Voice for Labour**
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- **Mike Cushman (Membership)**
- **Murray Glickman (Support Officer)**
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