

**REPORT**

30 June 2016

**THE SHAMI CHAKRABARTI INQUIRY**

"While we celebrate our diversity, what surprises me time and time again as I travel around the constituency is that we are far more united and have far more in common with each other than things that divide us."

Jo Cox MP, 3 June 2015 (Maiden speech to the House of Commons)

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The Labour Party is not overrun by antisemitism, Islamophobia or other forms of racism. Further, it is the party that initiated every single United Kingdom race equality law. However, as with wider society, there is too much clear evidence (going back some years) of minority hateful or ignorant attitudes and behaviours festering within a sometimes bitter incivility of discourse. This has no place in a modern democratic socialist party that puts equality, inclusion and human rights at its heart. Moreover, I have heard too many Jewish voices express concern that antisemitism has not been taken seriously enough in the Labour Party and broader Left for some years.

An occasionally toxic atmosphere is in danger of shutting down free speech within the Party rather than facilitating it, and is understandably utilised by its opponents. It is completely counterproductive to the Labour cause, let alone to the interests of frightened and dispossessed people, whether at home or abroad. Whilst the Party seeks to represent wider society, it must also lead by example, setting higher standards for itself than may be achievable, or even aspired to, elsewhere. It is not sufficient, narrowly to scrape across some thin magic line of non-antisemitic or non-racist motivation, speech or behaviour, if some of your fellow members, voters or potential members or voters feel personally vulnerable, threatened or excluded as the result of your conduct or remarks. The Labour Party has always been a broad coalition for the good of society. We must set the gold standard for disagreeing well. I set out clear guidance so as to help achieve this.

As with other major political parties, complaints and disciplinary procedures are wanting. They lack sufficient transparency, uniformity and expertise in delivery. I recommend amendments to procedural rules capable of giving greater confidence to everyone involved in disciplinary processes, whether they fear the "*witch-hunt*" or the "*white-wash*" at any given moment. In particular, the essentially lay and untrained handling of matters of discipline is inadequate in modern political parties. I recommend a tightening of the broad discretion exercised in practice by Party staff as well as clear rules, guidance and training and the insertion of a legally qualified panel into the disciplinary process to assist the senior democratic body that is Labour's National Constitutional Committee ("NCC").

Those who assume leadership or representative positions within the Party, whether paid or unpaid, at a local, regional or national level, must be trained to, and judged by, an even higher standard than the wider membership. I suggest some possible ways in which a world-class training programme might be approached.

I recommend some greater breadth, detail and specificity to the Code of Conduct, Party Rules and disciplinary procedures as well as resort to a greater range of disciplinary sanctions short of expulsion; though expulsion may no doubt be necessary in some cases of gross, repeated or unrepentant unacceptable behaviour.

Urgent attention must be given to local parties who have been subject to "*special measures*" and greatly impaired democracy and autonomy for some years. The largely unchecked power of regional staff should be much more closely supervised and there must be greater inclusion and representation of black and minority ethnic people on the staff and at every elected level within the Party.

I ask Labour members, regardless of their particular strand or tradition in the Party, to work with these recommendations and put other policy and factional differences aside when race and human rights - and as a result, the reputation of the Labour Party - are on the table. In particular, it is possible to

criticise foreign powers (including the State of Israel), without resorting (by accident or design) to inflammatory (rather than persuasive) language. If, as I hope and believe, these recommendations are fully embraced by the Labour Leadership, I ask everyone in the Party to work with them in good faith. I ask for a moratorium on the retrospective trawling of members' social media accounts and past comments, so as to create the much needed atmosphere and opportunity for learning, positive consensus and progressive change. Going forward, members should feel able to report concerns to an improved Party process rather than to media and political opponents of the Movement's wider social justice goals.

Shami Chakrabarti

30 June 2016

On 29 April 2016, and after considerable concern and controversy leading to high-profile and senior suspensions from the Labour Party, the Leader Jeremy Corbyn MP asked me to conduct this Inquiry into antisemitism and other forms of racism.

My terms of reference are as follows:

The Inquiry, which will report in two months (of its launch), will:

- Consult widely with Labour Party Members, the Jewish community and other minority representatives about a statement of principles and guidance about antisemitism and other forms of racism, including Islamophobia.
- Consult on guidance about the boundaries of acceptable behaviour and language.
- Recommend clear and transparent compliance procedures for dealing with allegations of racism and antisemitism.
- Look into training programmes for parliamentary candidates, MPs, councillors and others.
- Make recommendations for changes to the Code of Conduct and Party Rules if necessary.
- Propose other action if needed, to ensure Labour is a welcoming environment for members of all communities.

To subsequent consternation outside the Party, I joined Labour as soon as I accepted this brief and did so for two reasons. Firstly, I had for some time been an undeclared Labour voter and supporter, though formally unaffiliated due to my work as first a civil servant and then the director of a cross-party, non-party human rights organisation. That employment ended only a month previously. Secondly, I wanted to be clear with everyone and especially with Labour members and supporters, that my Inquiry would be conducted, and any recommendations made, in the Party's best interests. Mine has not been a public or judicial inquiry imposed on an institution or community from the outside. Instead it was commissioned by the Leader of the Party and subsequently welcomed and supported by its National Executive Committee ("NEC"). The Leadership is to be commended for taking action in this way and for facilitating but never interfering with, or seeking to influence the outcome of my task. Indeed, I can say that I have received a universal welcoming courtesy and cooperation within the Party and relevant minority communities.

David Feldman, Professor of History and Director of the Pears Institute for the studies of Antisemitism at Birkbeck College, University of London, was appointed as a Vice-Chair to my Inquiry and Janet Royall, the Baroness Royall of Blaisdon PC, a former Cabinet Minister and Labour activist over multiple decades, graciously accepted my invitation to join the Inquiry as my other Vice-Chair. I am incredibly grateful to both of them for contributing their time, expertise and experience without reimbursement for the good of Her Majesty's Opposition and thereby for British democracy itself. Deok Joo Rhee also

worked pro bono as Counsel to this Inquiry. Her expertise as a senior public and human rights lawyer has been invaluable.

Thanks also to the countless individuals and groups within and beyond the Labour Party who suspended their scepticism of politics, people or inquiries to engage with my daunting task and create hope and energy for change.

But for the avoidance of doubt, and as a message to any political mischief-maker seeking to undermine the good faith or credentials of my team, this Report is mine, and mine alone, and I will take responsibility for it. In a democracy, it may be right and natural that opponents of the Labour Party scoff at or undermine this open-hearted work. This Report is for the political descendants of Keir Hardie, Ellen Wilkinson, Emanuel Shinwell and Learie Constantine, irrespective of race, religion, sex, sexuality or other badge of identity. If you have felt remotely sad or frustrated in recent months or years, if you worry about whether you still belong in your instinctive political home, please read on. Equally, if you feel that antisemitism or other racism is going to be manipulated by a hostile media, or by political rivals to silence your legitimate concerns about the world, this Report and our work is for you.

## **The Chair**

I am a human rights activist. I am also a lawyer, a former civil servant, Londoner and British Asian. My parents came to the capital in the late 1950s having witnessed bitter sectarianism (including violence) in a recently partitioned India. I grew up in the 1970s and 1980s in North West London. So far away from their original families, my parents created their own community of friends and neighbours from all over the world. Inevitably, the picture was not perfect. They were subject to a violent racist attack as they walked with me in my pram on Hampstead Heath. Some of their neighbours told them to "*go home*". Their Jewish friends (descended from earlier phases of migration to the UK) were amongst their best and most welcoming. Years later, as the Director of Liberty (the National Council for Civil Liberties) during "*the War on Terror*", I was often (especially on social media) described as a Muslim terrorist sympathiser. I never denied the Muslim label.

## **The Terms of Reference**

The terms of reference, set out above, formed the basis of this undertaking from the very outset. I say this finally to deal with rumours that "*other forms of racism*" were a late addition and somehow intended to dilute concerns around antisemitism. This is far from the truth. In my view, the terms are as they should be for three important reasons.

Firstly, my clear view is that there is not, and cannot be, any hierarchy of racism. This must stand regardless of perceptions, realities or stereotypes about which racial groups may, or may not, be more established or more or less discriminated against at any given moment. So whilst there is particularity in the history and experience of racism as manifest and directed against one group or another, it is incredibly important that whilst individual testimonies are acknowledged, universal principles are then applied. So for example Islamophobia, antisemitism and Afriphobia are all equally vile forms of racism. No competition for victimhood is required or should be encouraged. Instead, members of all

understandably anxious and vigilant minorities should stand in solidarity with each other and indeed with others across society (especially in the Labour Movement) who put human rights and equality at the forefront of their values and practice.

Secondly, the breadth of my remit in terms of practical recommendations would make it nonsensical to restrict its substantive reach to only one form of racism. One would not dream for example, of improving codes of conduct or complaints or disciplinary procedures for one strand of behaviour and not others.

Finally, inquiries of this nature cannot happen every week. So it would seem wrong to exclude any ethnic group within the Party or society which it serves, from the opportunity to express its concerns and points of view about these issues. In my view, the most important line in my terms of reference comes right at the end: "*to ensure Labour is a welcoming environment for members of all communities.*"

It has been pointed out to me on numerous occasions how tall an order this Inquiry might be, particularly in only two months. However, in a world sceptical of politics and inquiries, it is important that such projects are not perennially seen as a method of dispatching difficult issues to the "*long grass*". This can be incredibly counterproductive. Inquiries are inevitably commissioned at a moment of considerable legitimate concern. It is important to replace heat with light and to do so as quickly as is reasonably possible. This is especially true if a single person is feeling anxious in their political home. A more united Labour Party is not just essential for its members and voters, but even more importantly for our country and the wider world. Future generations must never read of refugees drowning in the Mediterranean and Britons queuing at food banks whilst the movement that existed to offer them hope turned in on itself. My aim with this report is not to close down debate on delicate issues around all kinds of personal and political differences within the Party. Instead these debates should be able to continue in a more trusting and constructive environment.

## **The Process**

This was not a judicial, public or otherwise very formal or legalistic inquiry. Further, it was not a disciplinary tribunal and so had and has no jurisdiction over disciplinary cases yet to be decided by the Labour Party structures as currently organised. Nonetheless, I hope that many of my observations will be seen to be based in common sense. It is a tribute to the communities involved that people submitted in so many helpful ways, individually, institutionally and in informal groups. Written submissions of various types were sent primarily via the Inquiry email address and webpage. In addition, my team and I had various meetings with different groups within the Labour Party and minority communities to encourage more written submissions, better to understand people's experiences via dialogue and to hear about constructive ideas for the future. The reception we received was both frank and generous from Party and minority community members from across the country (some travelling many miles at short notice to engage even during and around religious festivals such as Ramadhan and Shavuot). I hope to do justice to their experiences, efforts and trust.

Members of ethnic minorities have been part of the Labour Movement since its beginnings in chartism. "*Jews have no better friends in this country than the Labour Party*" said the Jewish Chronicle in 1920. Notwithstanding a vibrant Palestinian solidarity tradition, of all British political parties the Labour Party has the longest and most consistent record of support for Zionism, and the Labour Government quickly moved to recognise the new state of Israel upon its formation in 1948.

Earlier in 1945, 26 of the 28 Jewish MPs elected to Parliament were Labour members and one of the other two was a Communist. This inclusiveness is equally evident in the history of Irish political participation in the Party from its earliest days. In the 1970 General Election, 80 per cent of Irish voters supported Labour. In 2010, the proportion of the BAME vote for Labour was more than double that in relation to the white population.

All United Kingdom legislation to address racial discrimination has been enacted by Labour Governments. Further, from the mid-1970s the Party began to promote active policies in pursuit of equal opportunities. One outcome in the 1980s was a more welcoming environment for black and Asian workers in public sector employment in Labour controlled local authorities. In 1987 Diane Abbott, Paul Boateng, Bernie Grant and Keith Vaz were elected to the House of Commons and as late as 2005, 13 out of the 15 BAME MPs were Labour.

Yet according to the testimony received by my Inquiry and published by various contributors online, there have also been incidences of overt antisemitism, Islamophobia and other forms of racism in the Party over the years. There has been occasional resort to disparaging ethnic stereotyping (including but not exclusively of Jewish people) and even racially discriminatory legislation in the form of the Commonwealth Immigrants Act 1968 designed to prevent East African Asians from coming to the United Kingdom.

The years following the Twin Towers atrocity in New York in September 2001 and the London bombings of July 2005 saw the Labour Government's support for the War on Terror at home and abroad. The Iraq War (to be discussed in the long-awaited report of another inquiry), as well as stop and search without suspicion, punishment without charge or trial and the domestic extremism agenda left many British Muslims feeling suspect and alienated in their natural political home.

Even this brief potted history should demonstrate the constant danger of geopolitics, foreign, immigration and other home affairs policy periodically colliding so as to heighten sensitivities and breed divisions within the Labour Party, and a feeling of vulnerability on the part of ethnic or religious minorities within it. External threats to our solidarity are often unavoidable, but where we can strive to do better is in our attempts at uniting in difficult times and in our sensitivity to minority groups and opinions so as to disagree well. Members of any party (including its leaders) may always be judged to have been right or wrong on policy in the light of subsequent events. This Inquiry is not about the wisdom of substantive policy, but rather, about the tone of constructive debate.

I am not in the business of defining hate speech or offences which already prohibit and impugn it under the ordinary criminal law of the land. Nor am I charged with legislating to deal with discrimination on grounds of race or faith which is dealt with under the Equality Act 2010, a modern law for which we ultimately have the Rt Hon Harriet Harman MP and Baroness Doreen Lawrence to thank. Instead, my task involves exploring and setting a higher standard of discourse fitting of the United Kingdom's leading progressive political party. As this standard is higher than merely not being or intending to be antisemitic, Islamophobic or otherwise racist, I see no need to pursue an age-old and ultimately fruitless debate about the precise parameters of race hate. Surely we in the Labour Party can do better. We can facilitate free speech, whilst acknowledging the evidence that we have received that there have been some instances of undoubtedly antisemitic and otherwise racist language and discourse in the past and at the same time encouraging a civility of discourse which is respectful of each other's diversity and sensitivities.

The first paragraph of Clause IV of Chapter 1 of the Labour Party Constitution reads as follows:

"The Labour Party is a democratic socialist party. It believes that by the strength of our common endeavour we achieve more than we achieve alone, so as to create for each of us the means to realise our true potential and for all of us a community in which power, wealth and opportunity are in the hands of the many not the few; where the rights we enjoy reflect the duties we owe and where we live together freely, in a spirit of solidarity, tolerance and respect."

Paragraph 2 B goes on to describe the Party as working for:

"A just society, which judges its strength by the condition of the weak as much as the strong, provides security against fear, and justice at work; which nurtures families, promotes equality of opportunity, and delivers people from the tyranny of poverty, prejudice and the abuse of power."

And in 2 C, for:

"An open democracy, in which government is held to account by the people, decisions are taken as far as practicable by the communities they affect and where fundamental human rights are guaranteed."

Paragraph 5 continues:

"On the basis of these principles, Labour seeks the trust of the people to govern."

These are important words and worth unpacking. The idea of ensuring that "*power, wealth and opportunity are in the hands of the many not the few*" is a noble and essential one to anyone of the left of the centre in democratic politics. It is a perfect encapsulation of economic and social justice, of a community based on greater equality and solidarity. However, this ideal of "*the many not the few*" should never be misinterpreted as justifying an insensitivity towards or oppression of minorities of race, faith or opinion. This should be self-evident from the subsequent words about "*prejudice and abuse of power*" on the one hand, and fundamental human rights on the other. In other words, social

justice and justice towards individuals and minorities should not be in conflict. Finally, Labour "*seeks the trust of the people to govern*". That is a sacred trust and one that cannot be easily sought, won or retained. However it is the ultimate point of the Labour Party. With the greatest of respect to academic institutions, debating societies and sporting clubs, it is none of these. It has members who share values but ultimately exists for the good of "*the people*" inside and outside itself. Anyone who undermines its mission by continually behaving contrary to "*the spirit of solidarity, tolerance and respect*" should seriously consider taking their grandstanding elsewhere.

## **Sensitivity**

The Labour Party is and must continue to be the natural political home for hundreds of thousands, even millions of people, whether they actually join the Party or not (though of course we welcome and strive for membership in ever-growing numbers). A political home, like a domestic one, should be a place where you feel comfortable and safe even and especially when things are more difficult on the outside. It should be a place where people of shared values can disagree with kindness and civility and where difficult issues are resolved without resorting to abuse. Its club rules therefore can, and must be, tighter than outside and its atmosphere, sensitive to the diverse histories, experiences and difficulties of those who share the space and cause.

It seems completely right and natural that the Labour Party has been the instinctive political home to generations of migrants to the UK including my own parents. People who cross countries or continents in search of a different or even better life for themselves and their families are often poor, ambitious, idealistic or all three. These personal characteristics may understandably create an affinity with a modern progressive political force like Labour. The Party's internationalism and commitment to human rights are also likely to appeal. But for members of ethnic and religious minorities to be truly welcomed (as opposed to merely absorbed or accommodated) within a movement, requires a certain sensitivity to their stories and experience whether ancient or modern.

It is always worth remembering that Labour members (regardless of their background) are likely to be personally upset by human rights abuses, whether perpetrated by states or individuals, anywhere in the world. They must be free to criticise and condemn these abuses but never required so to do on account of their race or religion and as some kind of loyalty test. I have heard testimony from Jewish and Muslim members in particular, but also from other BAME members, who have on occasion, on account of news reports of various incidents around the world, felt the personal conflict of being asked to defend the Labour Party in general, or certain individuals in particular, to their families or communities, only then to have had to defend other countries or groups at their Party meeting for no apparent reason other than their race or religion. Sensitivity to the minority experience involves understanding what it feels like to be singled out, outnumbered and alone. No one with Labour values in their heart should ever be made to feel this way within the Party or unfairly identified with e.g. the violent or discriminatory actions of those who do not share our values at home or abroad.

As someone who has been on the receiving end of racist and other forms of hateful language and conduct in my life, I can testify not only to the hurt but the even more invidious sense of vulnerability that it can cause regardless of the true intentions or levels of ignorance of the perpetrator. Some of it can be very obvious but often (especially in the terrain of political discourse), it can be more subtle and harder to identify or understand without some appreciation of context and history in relation to a particular group.

Needless to say, there is no room for abusive language, conduct or discourse in the Labour Party regardless of the race, faith, politics or true motivation of the perpetrator. It should be no defence to cite one's own minority heritage or to point to phrases, epithets or metaphors routinely used outside the Party or elsewhere in the world. The British Labour Party will hold itself and its members to greater standards of civility in order both to create a truly welcoming environment and to facilitate genuine freedom of speech around vital but sensitive policy issues.

### **Explicit abusive language**

Many years ago when I first went to university, I became friends with a fellow undergraduate who was new to London and to living in an ethnically diverse environment. Upon arrival at my friend's flat for dinner one evening, I asked directions to the nearest place where I might go to buy a bottle of wine to share with my friends. My host told me that there was a "*Paki shop*" around the corner. I felt instantly sick (a common reaction to such an experience) but, to my regret, I did not say a word. At the time and now, with over twenty years hindsight, I am confident that my college friend had no shred of racist intention and was simply ignorant of the history, unthinkingly repeating a word commonly used and heard. Conversely, I had only ever heard it in childhood and adolescence as a term of abuse and so could never accept it as a light-hearted abbreviation with which to describe a local corner shop. Was my friend a racist - as in having hatred towards any particular racial group in her heart? Certainly not, in my view. Should the word have been used as part of my welcome to the party? Of course not.

Sadly, it would seem that this word still has too much currency even today, but I don't believe that many people would argue that it has any place in civilised discourse in modern Britain, let alone in the Labour Party. However language is a constantly evolving thing and it is wise to be sensitive and alert to new epithets that emerge to dehumanise people and to shut down free speech rather than expanding or enhancing it in any political community. Having dealt with one traditional and notorious racist label, I hope I do not need to list all the others that have been used over the years to abuse or so as to offend people of different ethnic groups or appearance.

- I recommend that the use of racist epithets has no place in the Labour Party.

During the short period of my current Inquiry, I have learned of a new modern-day racist epithet. "*Zio*" is a word that seems to have gained some currency on campuses and on social media in particular. No doubt it began as an abbreviation of "*Zionist*" (a term I will discuss later). However, I am clear that no one uses this word to describe their own political or cultural identity. It is a term of abuse, pure and simple, and should not in my view have any place in the vocabulary of Labour members, whether on-line, in conversation or anywhere else. According to the children's rhyme: "*Sticks and stones will break my bones...*". But name-calling will undermine the atmosphere being sought by the Labour Party under the leadership that appointed me to write this Report.

- I recommend that the word "*Zio*" should have no place in Labour Party discourse going forward.
- Similarly critical and abusive reference to any particular person or group based on actual or perceived physical characteristics cannot be tolerated.

## Stereotyping

Another fairly direct form of unwelcome and unwelcoming discourse is the use of ethnic stereotypes or dismissing individuals or whole groups of people as thinking or acting in a particular way due to their race or religion in particular. It is not my experience or finding that this kind of thinking is prevalent in the modern Labour Party but nor is it completely absent, and so I think it worth discussing with a view to achieving the highest standards that we seek to maintain.

A classic example (though not from our Party) would be of impugning the credentials or good faith of the US President in the context of our EU referendum debate on the grounds of his "*part-Kenyan*" heritage. The remarks (notoriously made by a senior Conservative politician) were doubly offensive in both stereotyping per se (i.e. in the suggestion that people of Kenyan heritage think a certain way), and in unleashing the classic conspiracy trope that people of a particular minority or of mixed race are somehow suspect or disloyal to the mainstream because a multiple identity equals dubious allegiance.

The example I give refers to the stereotyping of the first US President of African heritage whose American nationality, education, career of public service, democratic mandate and two terms as Commander in Chief proved insufficient to "*trump*" his part Kenyan heritage in the eyes of his pro-Brexit critic. However this kind of discourse is just as likely in relation to Jewish and Muslim people in some political discourse, including regrettably, on occasion, in the Labour Party.

To suggest, for example, that all or most Jewish people are wealthy or interested in wealth or finance or political or media influence or less likely to be of the left or likely to hold particular or any views on the subject of the Middle East is a classic stereotype. Equally, to doubt the political or national loyalty of a Jewish person on account of their actual or perceived connection to fellow Jews elsewhere around the world including in Israel is (unwittingly or otherwise) to tap into an age-old antisemitic conspiracy trope that will inevitably and understandably leave your Jewish friends, neighbours or fellow activists feeling vulnerable, excluded and even threatened. Once more, I am not saying that this is endemic, but any seasoned activist who says that they are completely unaware of any such discourse must be wholly insensitive or completely in denial.

I have heard the painful experience of a Labour councillor who was told that he would be particularly good at a finance role (for no reason other than being Jewish). I have heard from an MP around whom rumours circulated that she was some kind of agent for Mossad. This was simply on account of her faith identity and pre-parliamentary career in community activism. I have heard from Jewish students expected either to defend or condemn the policies of the Israeli government during their freshers' week when in truth they have no firm or developed view and just want to settle in and go to the parties like everyone else.

Similarly, I have heard Muslims (en masse) being derided as inherently sexist and/or antisemitic and potentially of split or dubious loyalty in the context of Party membership and political participation. Once more, they are sometimes expected to explain and condemn the actions of Isis or particular terrorist acts before, or more vehemently, than anyone else. This is simply not fair. I suspect that both communities suffer as a result of an occasional allergy in some parts of left thinking to religious motivation and identity, and more generally from an actual or perceived identification with fellow Jews or Muslims elsewhere in the world. Labour's internationalist and human rights traditions should be more than capable of embracing the multiple identities of Britain's diverse communities and of remembering that Christianity had its place alongside socialism and secularism in the foundations of the Party from the outset. Of course no religious doctrine, discourse or community can be free from criticism from the modern left (not least on account of the vintage and necessarily patriarchal

traditions of the world's great religions). The mistake is to treat any faith or other community as a monolith and thus to stereotype its members (whether through ignorance, insensitivity or for a more dubious motive), alienating them from politics in the process. To fall into this trap is to fail to understand twenty-first century racism and the way that race, faith and various hatreds overlap.

- I recommend that racial or religious tropes and stereotypes about any group of people should have no place in our modern Labour Party.

### **Insensitive and incendiary language, metaphors, distortions and comparisons**

As a free-speech campaigner, I have always believed in the right to offend. But as a lawyer I know the difference between a right and a duty. Self-censorship is a terrible thing when those living under oppressive regimes bite their tongues for fear of persecution or prosecution. It is equally terrible when people restrict their political speech for fear of the lynch mob. But there is another type of restraint that you might call kindness, politeness or good advocacy that is genuinely designed to persuade people and inform debates rather than inflame them.

In day-to-day political debate, it is always incendiary to compare the actions of Jewish people or institutions anywhere in the world to those of Hitler or the Nazis or to the perpetration of the Holocaust. Indeed such remarks can only be intended to be incendiary rather than persuasive. Why? Because the Shoah is still in people's living family experience and because, if every human rights atrocity is described as a Holocaust, Hitler's attempted obliteration of the Jewish people is diminished or de-recognised in our history as is the history of a global minority that has had cause to feel, at worst, persecuted and, at best, vulnerable for thousands of years. Other hideous human rights atrocities from African slavery to the killing fields of Cambodia, the Armenian and Rwandan genocides are all of course to be remembered and described, but diluting their particularity or comparing degrees of victimhood and evil does no service to anyone.

I am in no way suggesting that bad taste metaphors and comparisons should ever be a matter for the criminal law any more than say ill-judged and incendiary cartoons. I am told that they are frequently used in Israel. However, they are all too capable, not only of bringing the Labour Party into disrepute, but of actively undermining the cause of peace, justice and statehood for the Palestinian people which forms part of Labour's current "*two-state*" foreign policy and which so many Jewish people (including in the Labour Party) actively support.

I make no comment on past, present or future foreign policy in this report. Such discussion is well beyond my remit. Suffice to say that insensitive and incendiary language, metaphor and comparison is of no help to constructive debate, in general, and discourse around the future of Israel-Palestine, in particular.

- I recommend that Labour members resist the use of Hitler, Nazi and Holocaust metaphors, distortions and comparisons in debates about Israel-Palestine in particular.
- I further recommend that excuse for, denial, approval or minimisation of the Holocaust and attempts to blur responsibility for it, have no place in the Labour Party.

## Zionism and Zionists

Further, submissions to my Inquiry have demonstrated how contemporary Zionism is viewed by a range of people who describe themselves as its critics and supporters of different political persuasions. At first glance, dictionary definitions seem straightforward enough (e.g. Oxford: "*A movement for (originally) the re-establishment and (now) the development and protection of a Jewish nation in what is now Israel*"), but even these contain subtle, yet significant, variations (see e.g. Webster: "*an international movement originally for the establishment of a Jewish national or religious community in Palestine and later for the support of modern Israel*"). Even more importantly, language evolves constantly with events, politics and identity.

Crucially, I have heard testimony and heard for myself first-hand, the way in which the word "*Zionist*" has been used personally, abusively or as a euphemism for "*Jew*", even in relation to some people with no stated position or even a critical position on the historic formation or development of modern Israel. This has clearly happened so often over a number of years as to raise some alarm bells in Jewish communities, including amongst highly orthodox people who, whilst perhaps most "*visibly Jewish*" (e.g. in dress and or observance), would never see themselves as Zionists.

A further complexity comes from left-wing British Jewry, including, but not exclusively, young people becoming increasingly critical of, and disenchanted with, Israeli Government policy in relation to settlements in the West Bank and the bombardment of Gaza in particular. This has led to some people personally redefining their Zionism in ways that appear to grant less support to the State of Israel and more solidarity to fellow Jewish people the world over. A further complexity still arises from those people who are uncomfortable with criticism of the State or Government of Israel or who are suspicious of repeated criticism of Israeli policy in a way that they see as disproportionate or out of synch with human rights abuses by other states and governments around the region or the world.

It seems to me that it is for all people to self-define their political beliefs and I cannot hope to do justice to the rich range of self-descriptions of both Jewishness or Zionism, even within the Labour Party, that I have heard. What I will say is that some words have been used and abused by accident and design so much as to blur, change or mutate their meaning. My advice to critics of the Israeli State and/or Government is to use the term "*Zionist*" advisedly, carefully and never euphemistically or as part of personal abuse.

## Freeing up speech

This is not to shut down debate about what has been one of the most intractable and far-reaching geopolitical problems of the post-war world, but actively to facilitate it. Labour members should be free and positively encouraged to criticise injustice and abuse wherever they find it, including in the Middle East. But surely it is better to use the modern universal language of human rights, be it of dispossession, discrimination, segregation, occupation or persecution and to leave Hitler, the Nazis and the Holocaust out of it? This has been the common sense advice which I have received from many Labour members of different ethnicity and opinion including many in Jewish communities and respected institutions, who further point to particular Labour MPs with a long interest in the cause of the Palestinian people with whom they have discussed and debated difficult issues and differences, in an atmosphere of civility and a discourse of mutual respect.

What I cannot do is legislate for which causes activists within the Party spend their time and energies, or require that people only highlight issues relating to one country or government if they spend equal time on infractions or injustices elsewhere. No doubt my many years as a domestic human rights campaigner may have led some people (not least in past Labour Governments) to question my preoccupation with abuses by the British State when there was so much worse in North Korea, Saudi Arabia, Syria, Russia and elsewhere. No doubt some people suspected my motives or my loyalty to Britain. In truth it was my background, experience and a view that Britain should lead the world that informed my choice of activism. However, I understand that some apparently obsessive preoccupations will seem suspicious in motivation to those with a particular affinity or identification. Similarly, defensiveness, however understandable and explicable, also undermines mutual trust. I can only hope that courtesy and dialogue will help, and that people learn to behave on new media as they would in traditional media or even face to face with their opponents in debate.

There is perhaps sometimes a danger in progressive movements of confusing tactics and principles. I have rarely seen this so well demonstrated as in discussions around "*no-platforming*" or in building cases of criticism against people on the basis of those with whom they have "*shared a platform*" or even attended a large conference, even years into the past.

We can all remember or imagine times when it would make no practical sense for a national or local politician or community leader to attend an event or conduct a debate with "*the only fascist in the village*". The argument that people in public life should avoid giving the "*oxygen of publicity*" to hateful minority opinion is a good one where it can actually work. However, the advent of the Internet makes the efficacy of such an approach more and more dubious at this point in the twenty-first century, where everyone has a platform and a greater danger comes from narrower platforms where hate goes unchallenged and dialogue is replaced by diatribe.

I think it dangerous to argue guilt by association and in so doing to undermine the kind of dialogue and debate that is the basis of peace, progress and greater understanding in the world. It is especially pernicious, in my view, to blame those who share platforms with people who went on (often some considerable time later) to say and do things with which we profoundly disagree and even abhor.

I myself was subject to this kind of attempt at undermining someone's good character and good will earlier in the Inquiry process when a Sunday newspaper ran a story about my having shared a platform with a Guantanamo detainee on his release from that legal black hole many years ago. I clearly welcomed his release (for which I had long campaigned) and the speech he gave on that occasion. My suitability to lead the Inquiry was called into question because of incendiary comments that he was reported to have made "*recently*" (i.e. years after the event I attended). The irony of the story is that the newspaper that criticised me was itself one of the most long-term and consistent campaigners against the injustice that is Guantanamo Bay. But a story is a story and there seems nearly always to be more mileage in undermining debate than encouraging it.

But I am not here to criticise the press. I will, however, ask Labour members and supporters to reflect on what their representatives and leaders must strive to do in order to pursue the cause of peace, justice and reconciliation in the world. When I was young I never thought that I would live to see the fall of the Berlin Wall, liberation of apartheid South Africa and relative peace in Northern Ireland. None of these wonderful and important developments would have been possible without debate and discussion in public and in private by politicians of all persuasions and even diplomats and spooks.

Sharing a platform or having a meeting around some kind of problem or injustice never has meant, does not and never will mean, sharing any or all of the views (past, present or future) of everyone in the room. It is instead the business of peace-building and of the promotion of fundamental human

rights. I have learned so much in this process about the importance of listening. I write this Report in the spirit of encouraging better understanding and civil discourse. I will confront hateful speech wherever I encounter it. But we must never, in my view, run away from dialogue and debate.

- I recommend the adoption of the guidance on language and behaviour set out above and that Rule 2.1.8 of the Party's Rules be amended (as suggested in the Appendix to this report) so as to make clear that beliefs out-with the Labour Party's aims and values are not to be protected when considering whether a member has acted in a way which is prejudicial or grossly detrimental to the Party.
- I further welcome the Code of Conduct proposed by the Labour Leader and approved by the NEC in May 2016 in so far as it relates to racism. It should be amended so as to cover other forms of prejudice (e.g. against women, LGBT and differently abled people). In the light of this Code and my suggested guidance, I do not find further substantive rule changes addressing standards of expected behaviour to be necessary.
- In implementing these recommendations, it should be made clear that the principles and guidelines apply just as much to comments made on-line and via social media as they do elsewhere.

Procedural rule changes are dealt with in what follows.

One thing has been clear from the testimony and documentary evidence to my Inquiry. As with other major British political parties, there is a lack of clarity and confidence in current disciplinary procedures from all sides of the Party, including on the part of those who have complained and been complained against. Whilst my remit is racism, I believe that the recommendations that I make here are of wider applicability to all aspects of discipline and to the relationship between the membership, elected and staff structures of the Party apparatus. Party staff have often been in an invidious position due to a lack of appropriate expertise, sufficient resources and clarity in both practice and perception as to who is ultimately responsible and accountable for discipline within the Party and how those powers are to be exercised. In any democratic political party, discipline ultimately rests with those elected to deal with that function. Labour Party staff (whether at regional or national level) are currently between "*a rock and a hard place*" (however they act or do not act), and are subject to fierce and sometimes personal criticism, with (understandably and necessarily) no right of reply. It should also be remembered that the Party's membership has enjoyed a significant increase in recent times. This is exciting and welcome but brings an inevitable need for additional resources to serve that larger number. The following recommendations are as much to make the working lives of staff easier as to improve confidence in the system and values which they serve.

### **General Counsel**

The General Secretary of the Labour Party has an incredibly important and difficult job. He has responsibility for hundreds of paid staff around the country, a significant if inadequate budget (compared to other parties) and governance and secretarial responsibilities in relation to the Party's elected committees. This role is under-supported, not least for the lack of a single in-house lawyer, notwithstanding his responsibilities for electoral law, data protection and aspects of the disciplinary process of which I am writing now.

I understand, appreciate and welcome the fact that many Labour-leaning lawyers in private practice have offered their services on a range of complex issues either pro bono or for a fee over the years. However, testimony to my Inquiry reveals the sheer inadequacy of the in-house resources in an organisation understandably primarily equipped for political campaigning rather than due process, whether at regional or national level.

Whilst I understand the continuing need to engage a number of varying private practice lawyers to advise on various compliance and other legal issues, it is vital in my view, that there is internal legal expertise, not least to give urgent advice, achieve consistency and take responsibility for instructing a range of external lawyers (thus avoiding either favouritism or capture) where appropriate.

- I recommend the urgent appointment of a General Counsel or other staff lawyer to the Labour Party to give initial advice, including and in particular on disciplinary matters and to take responsibility for instructing external lawyers as appropriate. I also recommend further additional expert staff (quite possibly legally or part legally qualified), trained and equipped to work on matters of discipline. They could either work to the General Counsel directly or in the

current or some other improved and better resourced structure. The precise organisational formulation will be less important than the principles and expertise employed.

## **Complaints Procedures**

Many of those submitting evidence to my Inquiry have spoken of the lack of any readily available complaints procedure. Would-be complainants are thus often unclear how any complaint is to be made to the Party structures and how it will be dealt with. This is a matter that needs addressing in the interests of transparency and certainty and to promote and protect the reputation of the Party.

It is also important that the procedures explain 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 (e.g. to protect the identity of the complainant).

It should also be possible (in the interests of proportionality) for some concerns to be addressed informally without the need (at least initially) to set in train a formal investigation. Some members may e.g. have used inappropriate language in complete ignorance of its potential harm. An informal discussion may create an opportunity for resolution and learning in such circumstances.

Particularly where a swift and informal resolution has not been possible, it is important that the procedures lay down clear time-lines within which a complaint will usually be dealt with. Whilst there are understandably competing pressures on staff involved in the different stages of a disciplinary matter, would-be complainants, complainants and those against whom complaints are made should have the requisite degree of certainty in this respect. Some of these pressures may be alleviated by the establishment of a dedicated complaints handling officer (or team).

Disagreeing well within a democratic political party means not using abusive language in debate but it also entails avoiding the risk or perception of abuse of power in matters of internal discipline.

- I recommend the drawing up, and adoption of, a readily accessible complaints procedure explaining with sufficiently clarity how and to whom complaints are to be made. This procedure should also outline, in the interests of potential complainants and those subject to complaints, the information that is to be set out in a complaint, the right, absent good reason, of the person who is complained of to be notified of the details of the complaint and the identity of the complainant, the processes which may be triggered including processes for exploring an informal resolution of the complaint where appropriate and the length of time that each stage of the process will usually take.

## **Complainants**

Some care should also be taken to identify and record the identity of complainants. This would allow and facilitate genuine sensitive communication and "*aftercare*" in relation e.g. to a Labour Party member who has been targeted or upset unpleasantly by a fellow member. However, it would also create an important distinction between such a complainant and a hostile journalist or political rival

conducting a trawling exercise or fishing expedition in relation to a particular person or group of people within the Labour Party. I am not going so far to say that a politically motivated complaint should always be disregarded, just that motivation may have relevance, as will context. I also recognise that the Party's elected structures (Leader, the NEC etc.) should be able to raise concerns of their own volition about a member in danger of bringing the Party into disrepute. However, if an investigation arises via this route, that should be also clearly recorded. Further, subjects of complaint should normally be informed both of its substance and author at the earliest opportunity unless there is a clear and pressing reason for protecting the identity of a complainant.

Submissions to my Inquiry reveal a level of concern and confusion (in some quarters) about the "*Macpherson*" definition of a racist incident. This is of course a reference to the famous Report of 1999 into the Metropolitan Police after its appalling mishandling of Stephen Lawrence's murder. The principle that an incident should be recorded as "*racist*" when perceived that way by a victim may indeed have some useful application outside the policing context, and even here in the world of Labour Party discipline. However the purpose of the approach is to ensure that investigators handle a complaint with particular sensitivity towards the victim. It is to suggest the seriousness with which a complaint must be handled, but in no way to determine its outcome. If I complain to the police that I have been the victim of a racist attack on the street, I should expect my complaint to be so recorded. However investigation and due process must of course then follow and it is perfectly possible that an investigator, prosecutor or magistrate will subsequently find either that no attack took place at all, or that its motivation was something other than racism. In the present context, my complaint that I have been subject to racist or other personal abuse by a fellow Party Member should be so recorded, taken seriously and handled sensitively. However it will be for the investigation and any subsequent process to determine whether my complaint was ultimately well-founded.

## **Publicity**

It is completely unfair, unacceptable and a breach of Data Protection law that anyone should have found out about being the subject to an investigation or their suspension by way of the media and indeed that leaks, briefing or other publicity should so often have accompanied a suspension pending investigation. Indeed such an interim suspension being public ought to be the greatest exception rather than the rule, in for example, a case where the person concerned continues (despite warning) with public repetition of their allegedly offending remarks and publicity of their suspension is the only way to protect the reputation of the Party.

In the more ordinary course of events, a subject of complaint ought, as I have already mentioned, to be put on notice that they are the subject of complaint and investigation (with or without interim suspension) and any press inquiries followed up with a standard line that all complaints are followed up expeditiously.

Where a person has been subject to interim suspension, the smallest number of people possible should be informed in order to give practical effect to the suspension (i.e. those charged with convening branch or CLP meetings that the person in question may be barred from attending). For the most part, it should be possible to rely on the subject of any investigation and suspension to "*lie low*" and self-police their temporary suspension from the Party.

This would mark a sharp contrast with the recent state of affairs when it is publicity, almost as much as alleged misconduct on the part of any particular member, which has caused difficulties for the Party in

a febrile pre-election period. The Labour Party should seek to uphold the strongest principles of natural justice, however difficult the circumstances, and to resist subjecting members to a trial by media.

### **The Power of Interim Suspension**

Another matter which has been brought to my attention is the frequency of resort to the power of interim suspension in cases where an allegation that a member has acted in breach of the rules is before the General Secretary and/or his staff. Indeed, an early lesson that any new General Counsel might offer his/her colleagues is on the application of the vital legal principles of due process (or natural justice) and proportionality. I hope that my earlier comments make clear that I do not subscribe to the view that every allegation of misconduct within the Party is a factional mischief, but nor do I feel that every investigation warrants immediate publicity (a punishment in itself), nor administrative suspension (with the inevitable shame and opprobrium that is likely to follow) - even if the allegation has attracted public controversy.

It is important to remember that the beginning of an investigation into alleged misconduct is just that. The making of a complaint marks the beginning, not the end, of a hopefully fair process that might end in a warning, admonishment, some further sanction up to and including expulsion from the Party, or exoneration and no further action whatsoever.

Once you understand these basic natural justice principles, you realise that administrative suspension from the Labour Party need not be employed every (or nearly every) time a complaint (however credible) is made against a member.

Civil courts do not grant interim injunctions, nor criminal courts issue arrest warrants every time a complaint is made. The principle of proportionality requires some consideration of any grave and summary sanction that will no doubt have a detrimental effect on a person who is yet to be investigated, let alone heard.

I appreciate and believe that behavioural standards must be higher in a progressive political party than they are in the country generally. However, due process standards should be equally high. I find it regrettable, to say the least, that some subjects of recent suspension and disciplinary process, under the Party's disciplinary procedures, found out about their suspensions and investigations as a result of media reporting rather than notice from the Party itself. Staff or elected officials should never feel it necessary (even during a pre-election media frenzy) - to operate a presumption of suspension. If anything, the presumption should be against interim suspension. The question should be about the seriousness of any immediate damage that the person subject to investigation might do to the Party if allowed to continue as a member in the meantime.

Indeed, if the principle of proportionality had been properly applied in recent times, I query whether so many people would ever have been suspended at all, rather than simply given notice that they were being investigated in relation to a complaint that their conduct had brought or was bringing the Party into disrepute. The factors to be considered when considering an interim suspension pending investigation should be a) the gravity of the conduct complained about and b) the immediacy of any risk that the individual or group concerned might do lasting or irreparable damage to the Party even during the period of the investigation. I bear in mind also that individuals subject to an investigation can be issued with appropriate warnings which may in any event avoid or reduce the need to impose a suspension. So an electoral candidate or office holder or other person with some kind of leadership

role within the Party at local, regional or a national level might be in graver danger of damaging the Party (in particular in the run-up to elections) than an ordinary rank and file member might do. Similarly, someone without a candidacy or formal representative role but who nonetheless commands a high media or other public profile might be in danger of continuing to damage the Party's reputation even during the period of investigation.

Given the serious consequences of suspension (both for an individual member and the Party), and the ease with which electronic communications can facilitate primary decision-making by an appropriate body, even at short notice:

- I recommend that the power of interim suspension no longer be vested in the NEC (and in practice routinely exercised by the General Secretary and/or his staff) and instead vested in the NCC (to be exercised by a sub-panel of that body). The NCC is the ultimate body within the Party responsible for judging disciplinary matters. The NCC should be able to consult with its Legal Panel (as described below) before making such a decision. Further any NCC member with a particular closeness to participants in a disciplinary dispute or any other conflict of interest would be expected to recuse him/herself from the relevant panel. Further, it should be for the NCC to determine the length and effect of the suspension of the membership and other rights of the individual.

### **Legal Panel**

In addition to more and better legal advice to the General Secretary and his national and regional staff by way of a new General Counsel to the Party, I believe that final decision-making by the elected NCC could be improved and given greater legitimacy by the creation of a panel of qualified lawyers who would assist in the determination of any disciplinary charge laid by Party staff so as to ensure a fair hearing (including an oral hearing whenever requested). This panel would be made up of volunteer lawyers of standing (barristers or solicitors of at least fifteen years post-qualification experience) and appointed so as to achieve maximum confidence across the Party.

- I recommend the appointment of a panel of lawyers for a fixed term of 5 years, renewable upon application with appropriate terms of reference to assist the NCC in the discharge of its disciplinary functions. Provision for the establishment of, and appointment to, the Legal Panel may be made in new procedural rules and revised guidelines pursuant to the NCC's function of determining its own procedures.

### **The Sanctions**

In the event of a member being found in breach, the NCC should be encouraged to consider greater use of a wide and creative range of sanctions. These may include a warning, the requirement for apologies and/or some other form of sensitive reparation to another member or person or persons, a public warning or reprimand, suspension from the Party for up to two years, and expulsion.

I do not recommend lifetime bans from the Labour Party. Present or future members of the NEC should not be robbed of their discretion to consider how someone may have changed their attitudes

or behaviour (not least in the light of age, education or experience), though I agree that applications to re-join the Party after an expulsion will not normally be compelling before at least five years have elapsed.

### **Right of Review**

In cases where the NCC has ordered that a member be subject to suspension (for up to two years) or expulsion from the Party, there should be a right to seek a review of the decision on procedural or proportionality grounds to the Legal Panel, three of whom (excluding any member with previous involvement in the case) will consider whether the NCC made any procedural errors or breached proportionality in its prior determination. If this is found to be the case, the Legal Panel will refer the matter back to the NCC for a fresh determination as the case requires. In this way, the ultimate decision remains that of the NCC, albeit that greater protection will be afforded if necessary - both to those subject to the most serious disciplinary sanctions and to the elected Party body who will have a final opportunity to address any deficiencies in its decision-making.

- I recommend that the NCC make provision for this right of review in new procedural rules which I recommend are adopted.

### **Limitation and a Moratorium**

- I further recommend that once my guidance (set out in Chapter 4 above) on appropriate language and behaviour is disseminated, there be a moratorium on triggering new formal investigations (as opposed to informal discussions) on comments and conduct arising prior to my report. This in no way effects investigations that began before the dissemination of my findings and recommendations.
- Further there should be a "*statute of limitations*" on the bringing of formal disciplinary proceedings in relation to the kind of "*uncomradely conduct and language*" (as opposed to other disciplinary matters relating to e.g. Criminal or Electoral law) that I have discussed above. I would recommend that this be a period of no more than two years save in exceptional circumstances.
- I recommend that the entire process set out above be subject to appropriate time limits governing each stage of the disciplinary process.

## The New End to End Process

So to summarise, my amended disciplinary process would work as follows:

1. A complaint is made against a Labour Party member at either Constituency or National Level.
2. The initial recipient of the complaint gives some thought as to whether an informal resolution of the complaint is possible and appropriate.
3. In the case of complaints made at national level, and assuming no such informal resolution, the complaint is delegated to an appropriate member of Labour Party staff (at regional or national level) who initiates an investigation with a view to determining whether any formal charges should be presented to the NCC. Unless there are particular reasons for not so doing, the member would be given notice of the fact and nature of the investigation into him or her and the identity of the complainant.
4. In the case of complaints or allegations at national level, if the relevant staff member (having consulted General Counsel to the Labour Party) is of the view that interim suspension is required, an urgent application (including the compelling reasons for such emergency relief) is made to the NCC. I do not recommend the introduction of an equivalent power on the part of CLP staff.
5. The NCC (if necessary taking the advice of its Legal Panel) decides on any application for emergency suspension (with or without publicity).
6. An investigation ends with either the laying of charges to the NCC or no further action and prompt notice to the subject of the investigation in either case.
7. In the event of disciplinary charges being laid, a member of the NCC's Legal Panel is assigned to the case in order to ensure that the requirements of natural justice and proportionality are met by the NCC's consideration of it (including where any oral hearing is requested or otherwise convened), and to provide any other legal input as requested by the NCC.
8. In the event that the NCC finds that there has been a breach of the rules, it is to make use of a wide and creative range of sanctions, having regard to the severity of the breach, its persistence, the conduct of the individual both after the alleged breach was brought to his or her attention, and any warnings or prior disciplinary sanctions to which he or she has been subject.
9. Where the NCC imposes a suspension or an exclusion, the individual is to have the right of review on procedural and proportionality grounds, such review to be determined by the Legal Panel, which if it considers any such grounds have been made out, will remit the matter to the NCC for a fresh determination as the case requires in accordance with point 7 above.

Austerity post-Brexit Britain presents enormous challenges for the Labour Movement with its ultimate responsibility for representing the hopes and interests of some of the poorest and most disenfranchised in our society. The ranks of the membership have grown bringing a great potential resource, but one cannot assume that everyone has or will have the same privileged higher education as many of the Party's candidates and representatives of recent decades. As one activist said to me: "*I left school young and didn't do PPE*" (i.e. at Oxford University). Further, Conservative-run State education is hardly likely to equip people for lives of socialist activism, organisation and leadership. So this is a good moment to consider how best to fill the gap so that Labour Members are able to fulfil their best potential within the Party.

The Movement has a rich tradition of teaching and learning, more than a century long. Ruskin College was established in 1899 (originally as Ruskin Hall). Workers Education Associations were formed in 1903 and the National Council of Labour Colleges in 1921. All had strong connections with the Trade Unions who themselves continue to provide a great deal of highly effective education and training designed to prepare members for representative and leadership roles.

The context for this history was always a somewhat deficient and elitist state education system and the need to give working-class students access to knowledge and culture as well as to train them for effective activism.

Post-1945 reforms led to enormous and positive change, not least in the democratisation of Higher Education by successive Labour Governments (e.g. the establishment of the Open University in 1969). Arguably, post-war Trade Union education became more focused on training than on liberal education as a result. However there was a parallel rise in grassroots learning and self-help by way of the women's movement, local history projects and the History Workshop movement (once more with roots in, and connections with, Ruskin).

As with all aspects of this Inquiry, I am grateful for the variety of the submissions received, in this case ranging from "*pitches*" to design values-lead training to critiques of the idea that anti-racism training can ever be effective and nervousness that one strand or another in the Party's thinking should be given a privileged position in relation to describing and disseminating the boundaries of acceptable attitudes and behaviour.

On reflection, and having gauged the range of feelings within the Party, it is not my view that narrow anti-racism training programmes are what is required. There is a grave danger that such an approach would seem patronising or otherwise insulting rather than truly empowering and enriching for those taking part. Instead, the Party's values, mission and history could be firmly embedded in more comprehensive activism and leadership education designed to equip members for the organisational, electoral and representative challenges ahead.

Now is a time to reassess broad-based education and training within the Labour Movement, and rather than attempting to "*re-invent the wheel*", to work in partnership with the Trade Unions, Higher Education institutions, Festivals and others. The Internet also presents a considerable opportunity for the promotion of relevant skills and learning within the Party.

The crucial thing is that Labour learning should be empowering and fun and not feel like some kind of top-down box ticking exercise. Further it should be varied, personalised and designed to fit into members' busy and challenging work and family lives. Some members might benefit from help with basic language and literacy skills. All should have access to Labour history and values (including basic Equality, Human Rights and Employment law). Those interested in holding office within the Party or in being candidates for public office at either local or national level should have access to a range of vital skills training (e.g. in chairing meetings, public speaking, writing and using social media for activism etc.). Further, cultural activities such as book groups and trips to relevant films, plays, museums and festivals might sometimes be as useful to the shared lives of local members as late night meetings debating great matters of State.

Finally, too many people (including some Labour Members) in contemporary Britain may have never had the opportunity to meet with and hear from people of different race, faith or perspective. This should be considered by those responsible for conferences and meetings at whatever level within the Party.

- I recommend that the NEC set up a working group to assess education and training needs across the party with a view to working with trade union and higher education partners so as to offer practical and enriching values-lead programmes to members with varying needs and interests. In doing so, I recommend that the latest thinking in addressing unconscious bias incorporated in this important work.
- The Party should consider the adoption of an over-arching Equal Opportunities Policy (with corresponding training for those in elected office and on the staff). There should also be a requirement that the equality and diversity impact of all staff recruitment and selection decisions be considered.
- There should be specific training for all staff and members involved in the investigations and disciplinary process.
- The Labour Party Rule Book, accompanying documents and "*plain English*" explanation should be much more readily accessible on-line.

## 7 OTHER ACTION TO ENSURE LABOUR IS A WELCOMING ENVIRONMENT FOR MEMBERS OF ALL COMMUNITIES

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I explained earlier why the trigger of antisemitism notwithstanding, I believed that it was right that my terms of reference embrace all forms of racism. I also explained that it is not enough to avoid being clearly, expressly or deliberately racist in the Labour Party if anyone feels excluded from their instinctive political home. That is why the idea of ensuring "*Labour is a welcoming environment for members of all communities*" constitutes the fundamental underpinning of my task. The journey of this Inquiry has reinforced the importance of this, not just in principle, but sadly in practice as well.

I believe it right, natural and wholly positive for the Labour Movement, that so many new-comers to Britain, their children and grandchildren have gravitated to the party of social justice since its origins and inception. There is nothing inherently suspect about this tendency, and it should be welcomed and positively encouraged by all in the Party.

I am sorry to report that "*a welcoming environment*" has not been the overwhelming experience of many BAME members, including those from Afro-Caribbean, Muslim and Sikh communities in particular. I heard too many stories (from across the country) of members who felt that they were "*good enough to deliver votes and leaflets*" but not for staff or leadership positions within the Party or to be candidates for public office save (and often not even then) where their own ethnic community provides the majority of the electorate. This kind of testimony was far too common and consistent to be a complete misunderstanding and I do not want to see members of any communities leaving the Party to seek engagement and representation elsewhere.

### "Language Skills"

An Afro-Caribbean woman of obvious intelligence, articulacy and experience described how she had been told that her "*language skills*" were insufficient for her to be put forward for election. Her language skills and advocacy were in fact excellent (at least to my ears). Indeed I have little doubt that English was probably her first language. Nonetheless, she had an accent, as we all do, whether shaped in part by our class, ethnic, national or regional background, or any combination of all of the above. So her experience was of direct racism and this has been experienced by a number of others, including of South Asian origin.

Further, if there really are problems within communities in relation to members who lack sufficient English language literacy or speaking skills adequately to participate at any particular level, surely fellow Party members or the Party more formally should seek to provide a way to help in the attainment of such proficiency. To exclude people from any aspect of life, rather than offering a helping hand in such circumstances, may be acceptable in other political parties but it is wholly unworthy of Labour.

## "Experience"

Another excuse with which too many BAME members have been presented as to why they have not been preferred for various leadership or representative positions or candidacies (whether at local or national level) is a lack of appropriate activist experience. Years of active engagement and/or leadership in e.g. a local church, mosque, Gurdwara or other community service or activity, are sometimes thought to be an inadequate alternative to years of door-knocking or attending ward, branch and constituency meetings. Relevant professional experience may also be over-looked (a classic example of the kind of stereotyping which I discussed earlier).

## Representation

Some members have gained the impression that BAME electoral candidates are somehow only welcome in areas with a large population from their own particular faith or ethnic group (an assumption clearly not applied in relation to white candidates). It was further pointed out to me that there is currently not a single Sikh Labour MP in the House of Commons (Sikhs being a minority amongst minorities almost everywhere). There is a fairly wide-spread feeling that BAME candidates are less likely to be selected for parliamentary by-elections in particular. I am not making a finding that there are informal quotas or caps in place, merely voicing the feelings and frustrations of too many loyal Labour Party members who have trusted me with their past disappointments but also their continuing hopes, via the Inquiry process.

The Labour Party has good cause to be proud of having more BAME MPs than any other party, and that they now constitute over 10 per cent of its contingency in the House of Commons. However, the proportion of BAME constituents in Labour seats may be as much as double this. So there is surely no room for complacency. Nor, I think, should anyone feel completely satisfied with only 2 BAME members out of 24 on the Party's NEC.

## "Special Measures"

Labour's Constitution (Chapter 1, Clause VIII, Paragraph 3 A and B) grants the broadest of discretions to the NEC to effectively suspend local party democracy in a part of the country that has come to concern in the way business has been conducted. One can understand the need for such a power in relation to a "*party unit*" just as there must be the power to suspend or expel individual members who have brought the Party into disrepute (as discussed above). The NEC must of course be vigilant as to any suggestions of electoral or membership irregularities or other inappropriate activity in the Party anywhere in the country. So the discretion allows the NEC to apply what have come to be described as a broad range of "*special measures*" in an area, effectively running it via the regional staff and granting only such democracy and autonomy (e.g. in relation to the convening of meetings and selection of candidates etc.) as those staff members see fit.

This may be right and necessary as an exceptional measure in principle. However, I have had testimony that 4 constituencies in central Birmingham have been subject to such a regime for up to 23 years (the precise dates are unclear), without regular reconsideration by the NEC, nor the creation of any kind of

roadmap for how local member democracy might ever be restored. Further, many in the local party have expressed considerable unease about the way that this broad discretion has been exercised by all white Party staff, and the way that they and their fellow (majority) Muslim members and voters have felt undermined and even discriminated against as a result.

It seems to me that whilst there may have been real concerns about the authenticity of new membership applications some years ago, modern banking and internet-based joining methods ought to make membership fraud easier to identify. Further, large-scale recruitment from minority or any other communities is not to be regarded as suspect per se. Far more worrying, in my view, is the enduring image of hundreds of BAME Labour members in one part of a city being denied democracy and autonomy, with little in the way of procedural protection, and the likely message this sends, whilst a handful of their white neighbours enjoy full membership rights down the road.

In light of the above:

- I recommend that the NEC gives urgent attention to any parts of the country that have been under "*special measures*" for more than six months.
- I recommend that going forward, no Labour Party unit in any part of the country should be subject to such a regime of executive control for more than six months without review by the NEC, and that within two weeks of any such administrative action, the local party in question is offered a plan as to how it might improve its practices and be allowed to return to full democracy, autonomy and status within the Party.
- As mentioned above, I further recommend that the Party reviews its Equal Opportunities Policies and their implementation and seeks to increase the ethnic diversity of its paid staff.

This Inquiry was triggered by a series of unhappy incidents which did no credit to the Labour Party. However, the test of a modern progressive political party should surely not be whether it has problems, but how it chooses to address them. I was appointed by the Leader and my Terms of Reference subsequently endorsed by the NEC. I have experienced no attempt at interference or censorship from any quarter and have benefited from the generous and candid engagement of hundreds of people and institutions both within the Party and from relevant minority communities with an interest in this Report.

Seismic political developments since the beginning of the Inquiry process make the health and unity of our Party more important than ever. This will only be possible if we live its values in the way in which we conduct ourselves at every level. Whatever one's views on the outcome of the EU Referendum, aspects of the ultimately successful Leave campaign and discourse leave a rather unpleasant after-taste to those of us committed to values of equality, solidarity and internationalism in a shrinking interconnected world. I hope that my recommendations will help Labour better lead by example, so as to heal and unite a scarred and divided country facing a currently uncertain future.

To recap my key recommendations are as follows:

1. Epithets such as "*Paki*", "*Zio*" and others should have no place in Labour Party discourse going forward.
2. Critical and abusive reference to any particular person or group based on actual or perceived physical characteristics cannot be tolerated.
3. Racial or religious tropes and stereotypes about any group of people should have no place in our modern Labour Party.
4. Labour members should resist the use of Hitler, Nazi and Holocaust metaphors, distortions and comparisons in debates about Israel-Palestine in particular.
5. Excuse for, denial, approval or minimisation of the Holocaust and attempts to blur responsibility for it have no place in the Labour Party.
6. Beliefs out-with the Labour Party's values are not to be protected when considering whether a member has acted in a way which is prejudicial or grossly detrimental to the party.
7. The Code of Conduct approved in May 2016 should be amended so as to comprehensively rule out all forms of prejudice, but in the light of this and the guidance in my Report, I do not find other substantive (as opposed to procedural) rule changes to be strictly necessary.
8. I recommend procedural rule changes (a draft is annexed to this Report) to improve the Party's disciplinary process (as well as a wider review of the relevant provisions of the rules and procedural guidelines in the light of those recommendations) and the adoption and publication of a complaints procedure.

9. I recommend the appointment of a General Counsel to the Labour Party and additional and appropriately expert staff.
10. I recommend that the power of interim suspension be vested in the NCC and give guidance as to how it might be exercised more proportionately.
11. I recommend the appointment of a Legal Panel of volunteer lawyers of standing so as to assist the NCC in its functions and to provide a review on procedural and proportionality grounds in cases of suspension or expulsion from the Party.
12. I recommend consideration of a greater range of NCC sanctions short of suspension and expulsion.
13. I do not recommend lifetime bans from the Labour Party and recommend time limits on the bringing of disciplinary charges.
14. Once my Report is disseminated and so as to give members an opportunity to be guided by it, I recommend a moratorium on triggering new investigations into matters of relevant language and conduct arising before publication. This in no way effects investigations and disciplinary proceedings already in train.
15. I recommend the formation of an NEC working group into comprehensive education and training needs across the Party with a view to partnership with Trade Unions and Higher Education providers. Staff and members involved in the new disciplinary process should receive appropriate training.
16. I recommend a review of the Party's Equal Opportunities Policies with a view to adopting an over-arching Equal Opportunities Policy.
17. I recommend better dissemination and explanation of the Party's Rule Book.
18. I recommend that the NEC gives urgent attention to any parts of the country that have been under "*special measures*" for more than six months.
19. I recommend that no part of the Party should be subject to "*special measures*" for more than six months without NEC review of that decision. Further the NEC must provide a plan as to how the local party is to improve its practice and return to full democratic rights within the Party.
20. The Party should increase the ethnic diversity of its staff.

## THANKS

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I am extremely grateful to my two Vice-Chairs:

David Feldman, Professor of History and Director of the Pears Institute for the studies of Antisemitism at Birkbeck College, University of London  
Janet Royall, the Baroness Royall of Blaisdon PC

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## ORGANISATIONS THAT CONTRIBUTED TO THE INQUIRY

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All Party Parliamentary Group on Antisemitism  
Board of Deputies for British Jews  
Bolton UNISON Labour Link  
Bradford Council for Mosques  
Brighton and Hove Palestine Solidarity Campaign  
Britain Israel Communications and Research Centre (BICOM)  
British Muslim Friends of Labour  
Broxtowe Constituency Labour Party  
Camden Abu Dis Friendship Association  
Campaign for an English Parliament  
City Sikhs  
Community Safety Forum, Manchester  
Community Security Trust (CST)  
Council of Mosques in Bradford  
Ealing Momentum  
Edinburgh Action for Palestine  
Enforce the Law Against Public Antisemitism  
English Democrats  
ESRC Party Members Project  
Federation of Muslim Organisations  
Finsbury Park Mosque  
Friends of Al-Aqsa  
Free Speech on Israel  
Hampstead and Kilburn Constituency Labour Party  
Harrow Council for Justice  
Hastings & Rye Constituency Labour Party  
Holocaust Educational Trust  
Huddersfield Pakistani Community Alliance  
Independent Jewish Voices  
Institute of Race Relations  
International Jewish Anti-Zionist Network (UK)  
Islamic Human Rights Commission  
Israeli Committee Against Home Demolition  
Jewish Care  
Jewish Council for Racial Equality (JCORE)  
Jewish Human Rights Watch  
Jewish Labour Movement  
Jewish Leadership Council  
Jewish Museum  
Jewish Representative Council of Greater Manchester and Region  
Jewish Socialists Group  
Jewish Telegraph  
Jews for Justice for Palestinians  
JVoice UK  
Labour Friends of Israel  
Labour Party Marxists

Leeds Jewish Representative Council  
Liberal Judaism  
Liverpool Friends of Palestine  
Masorti Judaism  
Members of Hampstead and Kilburn Constituency Labour Party  
Members of Riverside Constituency Labour Party  
Members of the Oxford University Labour Club  
MEND  
Momentum Black Connexions  
Muath Centre, Birmingham  
Muslim News  
National Union of Teachers  
Nordic Model Now!  
North Manchester Social and Political Discussion Group  
North West Friends of Israel  
Pakistani Youth Forum  
Palestine Media Digest  
Palestine Solidarity Campaign  
Palestine BDS National Committee  
Parnas  
Progress  
Race Equality Matters  
Ramadhan Foundation  
Representative Council of Birmingham and West Midlands Jewry  
Sephardi Community  
Southampton Palestine Solidarity Campaign  
South Wales Jewish Representative Council  
Trade Union Friends of Israel  
UK Palestine Mental Health Network  
Union of Jewish Students  
United Jewish Israel Appeal  
United Synagogue  
Voice of Dalit International (VODI)  
War on Want  
We believe in Israel  
West Surrey Palestinian Solidarity Campaign  
Women of Colour  
Yachad  
Zionist Federation of Great Britain

## APPENDIX

### KEY RECOMMENDATIONS ON RULE CHANGES TO THE RULE BOOK (2016)

#### **A CHAPTER 2: MEMBERSHIP RULES**

1. Rule 2.I.8:

“8. No member of the Party shall act in any way which is prejudicial or grossly detrimental to the Party ~~engage in conduct which in the opinion of the NEC is prejudicial, or in any act which in the opinion of the NEC is grossly detrimental to the Party~~<sup>1</sup>. Any dispute as to whether a member is in breach of the provisions of this sub-clause shall be determined by the NCC in accordance with Chapter I Clause IX above and the disciplinary rules and guidelines in Chapter 6 below. Where appropriate the NCC shall have regard to involvement in the financial support for the organisation and/or the activities of any organisation declared ineligible for affiliation to the Party under Chapter 1.II.5 or 3.C above; or to the candidature of the members in opposition to an officially endorsed Labour Party candidate or the support for such candidature. The NCC shall not have regard to the mere holding or expression of beliefs and opinions, provided they are consistent with the Party’s Aims and Values as reflected in Clause 1.IV.1 and 1.IV.B and C<sup>2</sup>.”

#### **B CHAPTER 6: DISCIPLINARY RULES**

2. Rules 6.I.1 to 6.I.4:

“1. The NEC shall take such disciplinary measures as it deems necessary to ensure that all Party members and officers conform to the constitution, rules and standing orders of the Party in accordance with the following provisions. ~~Such powers shall include:~~

A. Any complaint or allegation made of breach of the constitution, rules or standing orders of the Party by an individual member or members of the Party or by a group member or members may be made in writing to the General Secretary or otherwise raised by the General Secretary of his own motion. Receipt of a complaint or allegation will trigger the complaints procedure and the procedural guidelines of the NEC. The content of the complaints procedure, procedural guidelines and their application by the NEC, General Secretary and other national offers are

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<sup>1</sup> This is to simply and rationalise this rule. In particular, the qualification, “in the opinion of the NEC” is not workable in circumstances where it is the NCC that is to determine whether a member has acted in breach of this rule (see Rule 1.IX.2; and Rule 2.I.8 - in its present and proposed versions); further, the NEC is separately responsible for the laying of disciplinary charges before the NCC (Rule 6.I.1 – in its present and proposed versions).

<sup>2</sup> Cited at page 7 of the Report. For the relevant recommendation see page 14 of the Report.

to reflect and observe the principles of natural justice and proportionality<sup>3</sup>.

- BA. In relation to any such complaint or allegation, the NEC may:
- i. upon consideration of a report submitted to it by the General Secretary or other national officer following any investigation by the General Secretary or other national officer, instruct the General Secretary or other national officer to formulate charges against the individual or individuals concerned where it is of the view that a prima facie case of breach or breaches of a provision or provisions of the constitution, rules or standing orders of the Party has been made out and present such charges to the NCC for determination in accordance with its rules and guidelines.
  - ii. pending the outcome of any investigation by the General Secretary or other national officer or any subsequent determination of charges by the NCC, apply to the NCC for the suspension of that individual or individuals from office or representation of the Party notwithstanding the fact that the individual concerned has been or may be eligible to be selected as a candidate in any election or by-election, such application to be determined by the NCC in accordance with its rules and guidelines.

~~pending the final outcome of any investigation and charges (if any), suspend that individual or individuals from office or representation of the Party notwithstanding the fact that the individual concerned has been or may be eligible to be selected as a candidate in any election or by-election. The General Secretary or other national officer shall investigate and report to the NEC on such investigation. Upon such report being submitted, the NEC may instruct the General Secretary or other national officer to formulate charges against the individual or individuals concerned and present such charges to the NCC for determination in accordance with their rules."~~

- CB. In relation to any alleged breach of Labour group rules and standing orders by a group member or members, the NEC may:
- i. upon consideration of a report submitted to it by the General Secretary or other national officer following any investigation by the General Secretary or other national officer, instruct the General Secretary or other national officer to formulate charges against the individual or individuals concerned where it is of the view that a prima facie case of breach or breaches of a provision or provisions of the constitution, rules or standing orders of the Party has been made out and present such charges to the NCC for determination in accordance with its rules and guidelines.

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<sup>3</sup> See pages 16 to 19 of the Report. It is proposed that Advice Notes issued by the NEC are reviewed and revised so as to set out clearly and in accordance with the principles of natural justice and proportionality the way in which the NEC, General Secretary and any other national officer will exercise their disciplinary powers under Chapter 6 in accordance with the recommendations set out in the Report (at pages 16 to 19) and the accompanying proposed rule changes set out in relation to Clause 1 of Chapter 6.

- ii. pending the outcome of any investigation by the General Secretary or other national officer or any subsequent determination of charges by the NCC, apply to the NCC for the suspension of that individual or individuals from the group in question such application to be determined by the NCC in accordance with its rules and guidelines.

~~pending the final outcome of any investigation and charges (if any), suspend that individual or individuals from the group in question. The General Secretary or other national officer shall investigate and report to the NEC on such investigation. Upon such report being submitted, the NEC may instruct the General Secretary or other national officer to formulate charges against the individual or individuals concerned and present such charges to the NCC for determination in accordance with their rules."~~

- DC. Where in the opinion of the NEC there are circumstances which might warrant the use of its powers under sub-clauses ~~A and B~~ B and C above or where any of those powers has been invoked, the NEC may issue written warnings to any individual member of the Party drawing attention to the conduct which in the opinion of the NEC is either incompatible with continued membership of the Party or may be in, or may lead to, a breach of the constitution, rules or standing orders of the Party. The issue of any written warnings under this sub-clause shall not prevent the conduct that is the subject of such warning being called into question following any subsequent exercise by the NEC of its power under sub-clauses ~~A and B~~ B and C above, and both the fact of the issue of such warning and the conduct that is the subject of the warning including any subsequent related conduct may be used in the evidence referred to the NCC."

2. The complaints procedure and procedural guidelines referred to in sub-paragraph 1A shall between them make provision for:

- A. a limitation period (save in exceptional or identified cases) of 2 years within which a disciplinary charge is to be brought.
- B. the informal resolution of complaints where appropriate.
- C. the right, absent good reason, of the person in respect of whom a complaint or allegation has been made to be informed of the fact, nature and basis of the complaint or allegation, the provision(s) of the constitution, rules or standing order said to have been breached and the identity of the complainant.
- D. the circumstances in which the NEC will usually refer the matter to the Secretary of the relevant CLP or Labour Group for consideration pursuant to Clause II of Chapter 6 (Action by CLPs) or Clause XIII of Chapter 13 (Breach of Labour Group rules), respectively.
- E. the circumstances in which the NEC will seek the suspension of an individual or individuals pursuant to sub-paragraphs B(ii) and C(ii) of paragraph 1.

F. time limits within which the complaint and stages of the process should normally be handled.<sup>4</sup>

~~32.~~ When a person applies for re-admission to the Party following an expulsion by the NCC on whatever basis or by automatic exclusion under Chapter 2 4.A above of the membership rules, the application shall be submitted to the NEC for consideration and decision. Such applications shall not normally be considered by the NEC until a minimum of five years has elapsed. The decision of the NEC shall be binding on the individual concerned and on the CLP relevant to the application.<sup>5</sup>

~~43.~~ A 'suspension' of a member by a decision of the NCC pursuant to subparagraph B(ii) or C(ii) of paragraph 1 ~~whether by the NEC in pursuance of 1 above or by the NCC in imposing a disciplinary penalty,~~ unless otherwise defined by that decision, shall have the following effects:

(i) It shall require the membership rights of the individual member concerned to be confined to participation in their own branch meetings, unless the reason for the suspension in part or in full is their conduct in party meetings or there are concerns that their presence at branch meetings may be detrimental to the Party, and activities as an ordinary member only and in such ballots of all individual members as may be prescribed by the NEC.

(ii) A suspended member shall not be eligible to seek any office in the Party, nor shall s/he be eligible for nomination to any panel of prospective candidates nor to represent the Party in any position at any level. The member concerned will not be eligible to attend any CLP meeting other than to fulfil the requirement to participate in ballots.<sup>6</sup>

## **C CONSEQUENTIAL AND OTHER AMENDMENTS TO THE POWERS OF THE NEC AND NCC**

### *The NEC*

#### 3. Rule 1.VIII.A:

"3. In furtherance of its primary purpose and key functions, the duties and powers of the NEC shall include:

A. uphold enforce the constitution, rules and standing orders of the Party and to take any action it deems necessary for such purpose, including disaffiliation, disbanding, suspending or otherwise disciplining any affiliated organisation or Party unit; in furtherance of such duties it shall have the power to seek the suspension of, ~~suspend~~ or take other administrative action against, individual members of the Party subject

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<sup>4</sup> It is proposed that Advice Notes issued by the NEC are reviewed and revised so as to set out clearly and in accordance with the principles of natural justice and proportionality the way in which the NEC, General Secretary and any other national officer will exercise their disciplinary powers under Chapter 6 in accordance with the recommendations set out in the Report (at pages 16 to 19) and the accompanying proposed rule changes set out in relation to Clause 1 of Chapter 6.

<sup>5</sup> There is no proposal to amend Rule 6.1.3. However, the effect of an expulsion (as prescribed in this rule) is a matter which the NCC would be expected to take into account when considering the proportionality of any decision to exclude.

<sup>6</sup> See page 19 of the Report. See further the proposed amendment to Rule 1.IX.2 below (at paragraph 4 of this Appendix).

to and in accordance with the provisions of the disciplinary rules set out in Chapter 6 of these rules.”

“4. The NEC shall have the power to adjudicate in disputes that may arise at any level of the Party, including between CLPs, affiliated organisations and other Party units, and between CLPs, other Party units and individuals in those units and in disputes which occur between individual members or within the Party organisation. Where the rules do not meet the particular circumstances, the NEC may have regard to national or local custom and practice as the case may require. The NEC’s decisions shall be final and binding on all organisations, units and individuals concerned but shall be without prejudice to the disciplinary rules set out in Chapter 6 of these rules.”

#### *The NCC*

4. Rule 1.IX.2, 1.IX.4 and 1.IX.6:

“2. The duties and powers of the NCC shall be:

- A. to determine by hearing or otherwise such disciplinary matters as are presented to it by CLPs in accordance with the provisions contained in the disciplinary rules (Chapter 6 below).
- B. to determine by hearing or otherwise such disciplinary matters (including any applications for a suspension of an individual or individuals) as are presented to it by the officers of the Party on the instructions of the NEC, in accordance with the provisions contained in the disciplinary rules (Chapter 6 below).
- C. where a determination has been made as a result of a case brought under A or B above, to impose such disciplinary measures as it thinks fit whether by way of reprimand or suspension from holding office in the Party, or being a delegate to any Party body, or withholding or withdrawing endorsement as a candidate or prospective candidate of the Party at any level, or expulsion from membership of the Party or other penalty. The decisions of the NCC in determining such disciplinary matters before it and imposing such disciplinary measures as it sees fit, shall be final.

[...]

“4. The NCC or any panel thereof in hearing and determining charges against an individual shall have regard to the procedural rules and guidelines as determined by the NCC. The NCC shall have power to supplement such rules and guidelines from time to time and to modify its procedures in order to meet the circumstances of any particular case to ensure fairness to both the individual and the Party.

[...]

“6. In carrying out its functions in paragraphs 2, 3, 4 and 5 above, the NCC shall observe the principles of natural justice and proportionality.”

## **D RECOMMENDATIONS TO THE NCC FOR THE ADOPTION OF PROCEDURAL RULES AND GUIDANCE**

### *Rules*

5. It is proposed that pursuant to Rule 1.IX.4 (in its proposed version), the NCC adopt procedural rules to govern the determination of disciplinary matters presented to it (including any applications for the interim suspension of an individual) – to reflect the recommendations in the Report<sup>7</sup>. These rules should be appended to the Rule Book.
  
6. It is proposed that the NCC’s rules should make provision for:
  - a. the establishment of a Legal Panel, the qualification of its members, the length of appointment to the Panel and terms of reference.
  - b. the establishment of a rules sub-committee of the NCC with responsibility for the drawing up of, and revisions to, the rules and guidelines.
  - c. appropriate case management powers of the NCC so as to permit it to deal with matters flexibly, proportionately and fairly.
  - d. the allocation of a member of the Legal Panel to each disciplinary case referred to the NCC.
  - e. the determination of applications (e.g. for an interim suspension) and for the determination of disciplinary cases referred to it on an urgent or expedited basis – whether on application by the NEC or Respondent or of the NCC’s own motion.
  - f. in cases of urgency, the power to order interim suspension forthwith, subject to the right of the individual to seek a review of that suspension. The NCC should have the power to consult with a member of the Legal Panel before determining an applications in this respect.
  - g. the right of the Respondent, in all other cases, to an oral hearing (with legal representation if he or she desires). The NCC should have the power to convene a hearing in any event.
  - h. the attendance at all disciplinary hearings of a member of the Legal Panel.
  - i. all final determinations of disciplinary charges by the NCC - whether by way of a substantive determination or a decision to dismiss the case pursuant to Rule 1.IX.5 – to be made after consultation with the designated member of the Legal Panel.
  - j. a right of review - on procedural and proportionality grounds - in cases where the determination of the charges laid has resulted in a decision to suspend or to exclude the individual, such review to be determined by three members of the Legal Panel. In the event that any ground is upheld, the Panel is to remit the case to the NCC for a fresh determination as the case requires.

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<sup>7</sup> See pages 19 to 20 of the Report.

*Guidelines*

7. It is further proposed that the NCC's current guidelines (as presently contained in Appendix 6 to the Rules: "Procedural guidelines in disciplinary cases brought before the NCC") are reviewed and revised to explain the procedures before NCC (including provision for the receipt of evidence, attendance of witnesses, the hearing procedure and the time taken/allowed for each stage of the process).