

**The Forde Report**  
**Category 3 - Mapping of Recommendations and Analysis**

**Disciplinary Processes**

Page number	Recommendation number	Recommendation	Analysis	Comments
<i>Reform of the Party's disciplinary processes</i>				
116	1	The Party should operate with a standalone Regulatory and Disciplinary Directorate (Directorate) which should be professional and impartial and separate from other aspects of the Party's organisation.	3	It is anticipated that it will be both legally and financially complex to restructure the Party to establish this separate Directorate. This also risks undermining the work we have done to improve our current processes, plus the independent complaints process that became fully operational in April 2022. That was in direct responsible to the unlawful act findings made by the EHRC against the Party, and accordingly, we are not in a position to commit to anything that risks causing us to fall foul of our legal commitments made to the EHRC (and the membership and the wider public and stakeholders). Whilst this specific recommendation will not be implemented as suggested, to the extent that a recommendation elsewhere in this section can instead be applied to the existing Party structures, rather than the proposed Directorate, then this will be noted and considered further (as appropriate). Meanwhile, members should be confident that considerable work has gone into disciplinary-decision making structures of the Party since the EHRC report was published in 2020, including professionalising the process by providing training to all relevant individuals.

**The Forde Report**  
**Category 3 - Mapping of Recommendations and Analysis**

116	2	The Head of the Directorate should have substantive experience of regulation and be capable of designing, overseeing and implementing a fair and transparent system.	3	These are laudable aims, which the Party aims to encourage with its existing complaints and disciplinary processes. However, for the aforementioned reasons, it is anticipated that a separate Directorate would be costly and disrupt the organisation's focus on winning elections, as well as the new independent complaints process that has been operational only as of April 2022. Accordingly, this will not be implemented as written. Again, members should be confident in the knowledge that considerable work has gone into the disciplinary-decision making structures of the Party since the EHRC report was published in 2020, including professionalising the process by providing training to all relevant individuals.
116	5	Allegations should be screened initially by a panel of two case examiners, one of whom should be a lay member. The Party may wish to draw for these purposes from the pool of qualified and experienced lawyers that it is currently recruiting for its IRB and ICB. However it is important that the pool from which such lay members are chosen should be broad and diverse – in both the demographic and ideological sense – so as not to be subject to accusations of factional discrimination. The lay member need not be a lawyer, but should have knowledge and experience of regulation and regulatory systems.	3	This is not recommended for purposes of implementation. Firstly, we do not consider it is wise to mix the roles that the Independent Review Board ( <b>IRB</b> ) and the Independent Complaints Board ( <b>ICB</b> ) are currently undertaking. In the case of the IRB, this consists of reviewing the NEC's decision-making in relevant complaint types. In the case of the ICB, this consists of reviewing and/or making their own decisions in relevant complaint types. This recommendation could instead cause us to undermine the integrity and confidence of the new independent complaints process (operational only as of April 2022), and could also cause us to run counter to the legally-binding obligations we have made to the EHRC pursuant to the Action Plan (agreed by the NEC on behalf of the Party). There is also a concern as to the financial costs of implementing and financing such a screening process - as this could not be expected to be voluntary work. Moreover, there are concerns as to possible factionalism with the inclusion of a lay member without appropriate safeguards (which, again, risks running counter to our legally binding obligations vis-a-vis the EHRC).

**The Forde Report**  
**Category 3 - Mapping of Recommendations and Analysis**

116	6	Cases should be referred to a full hearing before an NEC Complaints and Disciplinary Panel only where both case examiners conclude that (i) there is a realistic prospect of a full hearing finding the allegation(s) proved and (ii) the appropriate sanction falls outside of their sanctioning powers.	3	See preceding comment.
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Page number	Recommendation number	Recommendation	Analysis	Comments
<b>1. Structural and staffing</b>				
118	1.1	Recruitment for the head of the Directorate should be open and transparent.	3	As an overarching comment, for the reasons identified above, it is both legally and financially complex to restructure the Party to establish this separate Directorate. However, these principles should apply to Party recruitment more generally - as confirmed in our response to recommendation 2 (Recruitment and Management of Staff).
118	1.2	All positions within the Directorate should be openly advertised and an NEC Panel should oversee all interviews and appointments. The Panel should consist of NEC members and senior staff.	3	For the reasons identified above, it is both legally and financially complex to restructure the Party to establish this separate Directorate. However, this ties to recommendations identified in relation to the recruitment of staff, many of which are already implemented.
118	1.3	The head, and staff, of the Directorate should have no wider responsibilities and should report only to the General Secretary and the appropriate committee of the NEC (for example, a “rules and disputes committee” (RDC)).	3	It is both legally and financially complicated to restructure the Party to establish this separate Directorate, especially given our wider legal obligations towards the EHRC.

**The Forde Report**  
**Category 3 - Mapping of Recommendations and Analysis**

118	1.4	The recent practice of NEC members being able to attend and vote on all subcommittees should cease and the RDC should have a small fixed membership of NEC members designated at the beginning of each new NEC term of office i.e. two years.	3	Whilst the NEC itself may wish to consider the appropriate size of its sub-committees, the success of our complaints and disciplinary processes depend on Party staff being able to pull from a large pool of individual NEC members. If there are fewer available, it risks causing backlogs in decision-making to accrue, which could cause legal, financial and reputational risks for the Party.
118	1.5	The RDC should have two standing Complaints and Discipline Panels of fixed membership of three members. These panels should consider cases against Party members following investigation by Directorate staff, who should recommend action – or no action – for Panel endorsement. In particularly complex cases the Panel membership could be extended to five, and should be so extended in any complex case in which the respondent is at risk of expulsion from the Party.	3	This risks embedding the factionalism that the Forde Report itself criticised in its report. It is hard to see how this would help serve the interests of complainants, respondents and/or the Party.
118	1.7	Support may be sought from regional or national staff on a temporary secondment but no other HQ staff, NEC members, politicians, or political staff (including LOTO staff) should have any decision making role or be able to intervene in the process of investigating and adjudicating on a complaint.	3	This is not feasible. It is currently the foundation of the Party's structures that the NEC makes decisions (where it is authorised to do so pursuant to those rules). However, we do have safeguards in place, such as the Protocol governing the appropriate interaction with the leadership of the Labour Party in the Labour Party's disciplinary and complaints processes. This was implemented as part of the Party's response to the EHRC report - the Action Plan - and makes clear that the political leadership of the Party shall not be involved in deciding the outcome of any complaints initiated under the Party's processes.

**The Forde Report**  
**Category 3 - Mapping of Recommendations and Analysis**

118	1.9	by a qualified deputy or deputies with a background in regulation and, therefore, capable of devising protocols reflecting best practice as defined by other regulators and the courts. In exceptional cases (for example, when the complaint concerned is particularly serious, high profile or otherwise sensitive) the head of the Directorate, or a deputy, may present a matter to a Complaints and Discipline Panel.	3	For the reasons identified above, it is both legally and financially complex to restructure the Party to establish this separate Directorate.
118	1.11	Caseworkers should be responsible for the investigation of complaints and the presentation of cases referred to a full hearing of a Complaints and Discipline Panel. However, a caseworker who has investigated a matter should not then present the case to a Complaints and Discipline Panel if it is referred to them for full hearing.	3	In effect, the Party's Governance and Legal Unit ( <b>GLU</b> ) already does this in relation to its functions as they pertain to complaints and disciplinary matters. However, it is not clear to us why a particular caseworker shouldn't present the case. They will be the ones presenting their recommendation, but it is for the appropriate decision-making panel (such as the NEC, NCC or ICB) to make a decision. To implement the proposal for alternative caseworkers presenting other caseworkers' work will likely be costly, duplicative and risks causing delays.
118	1.14	The role of case examiners is set out in paragraphs 2.8 et seq. Any person appointed as a case examiner in a given matter should not sit as a member of the Complaints and Discipline Panel in the same case.	3	We do not propose the separate Directorate (and resulting organisational changes), for the aforementioned reasons.
119	1.15	A member of the Party's IT staff should also be appointed as the Directorate's dedicated IT and data protection manager to be responsible for the collation of auditable records of complaint progression and outcome.	3	This is done already within GLU by the Head of Complaints, as reported to the Director of Governance and Legal and the Executive Director of Legal Affairs. It does not appear proportional - nor would it necessarily be proper - to task an individual in a different team to audit records.

Page number	Recommendation number	Recommendation	Analysis	Comments
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**2. Process**

**The Forde Report**  
**Category 3 - Mapping of Recommendations and Analysis**

120	2.3	<p>An initial assessment of any complaint received – and of any submissions made about it by the respondent – should be required to determine whether interim action is needed. In general, this should take place at a hearing before two case examiners (one of whom should be a lay member). However, in those rare cases in which the nature of the complaint (e.g. its seriousness) requires action to be taken before a hearing is convened, the merits of that decision shall be reviewed at a hearing to be held – again before two case examiners, one of whom should be a lay member – not more than six weeks after the suspension is first imposed. The same case examiners should also determine whether to continue the suspension pending disposal of the substantive complaint. Any decision about interim action should be made with full written reasons given and communicated both to the complainant and the respondent</p>	3	<p>In practice, this is already underway with complaints triaged at the point of entry. However, we do not propose to implement two case examiners, for the aforementioned reasons (as to cost, complexity and the risk of counteracting our legal commitments made to the EHRC).</p>
121	2.8	<p>A panel of two case examiners, including one lay member, should consider whether:</p> <ul style="list-style-type: none"> <li>• there is a realistic prospect that a Complaints and Discipline Panel will find the allegation proved (the First Test); and</li> <li>• the appropriate sanction falls outside of their sanctioning power (the Second Test).</li> </ul>	3	<p>For the aforementioned reasons, this recommendation will not be progressed (as it relates to the two case examiners and/or the separate Directorate).</p>

**The Forde Report**  
**Category 3 - Mapping of Recommendations and Analysis**

121	2.9	<p>The case examiners' sanctioning powers should be to:</p> <ul style="list-style-type: none"> <li>• order no further action;</li> <li>• issue a warning as to future conduct; or</li> <li>• impose a requirement to undergo training/education.</li> </ul>	3	For the aforementioned reasons, this recommendation will not be progressed (as it relates to the two case examiners and/or the separate Directorate).
121	2.1	Only if both case examiners consider that the First Test and the Second Test are satisfied should the matter be referred to a full hearing.	3	For the aforementioned reasons, this recommendation will not be progressed (as it relates to the two case examiners and/or the separate Directorate).
121	2.11	A warning as to future conduct should only be issued if the case examiners conclude there is evidence suggesting that a formal response is needed but the respondent should be told if this is being contemplated and be allowed to provide comments or request an oral hearing be held.	3	For the aforementioned reasons, this recommendation will not be progressed (as it relates to the two case examiners and/or the separate Directorate).
121	2.12	Where there is disagreement between case examiners the head of the Directorate should review the decision and determine whether or not action needs to be taken and should give written reasons for their decision to both the respondent and the complainant.	3	For the aforementioned reasons, this recommendation will not be progressed (as it relates to the two case examiners and/or the separate Directorate).

**The Forde Report**  
**Category 3 - Mapping of Recommendations and Analysis**

121	2.13	The head of the Directorate should have a right of review if any party to a case alleges that the decision of the case examiners is materially flawed either wholly or in part; there is new information which may have led wholly, or in part, to a different decision; and the head of the Directorate considers that the review is necessary to protect the reputation of the Party, or to prevent injustice to the parties.	3	For the aforementioned reasons, this recommendation will not be progressed (as it relates to the two case examiners and/or the separate Directorate).
121	2.14	If a decision is to be reviewed then all parties should be notified and asked to make representations. If new information is received it shall be disclosed to all parties and any further inquiries it prompts shall be undertaken by a caseworker reporting to different case examiners.	3	For the aforementioned reasons, this recommendation will not be progressed (as it relates to the two case examiners and/or the separate Directorate).
121	2.15	2.13 is upheld, and the head of Directorate disagrees with the case examiners, the head of Directorate should have the same sanctioning powers as the case examiners (see paragraph 2.9 above).	3	For the aforementioned reasons, this recommendation will not be progressed (as it relates to the two case examiners and/or the separate Directorate).
121	2.16	Whilst a case is proceeding, only the fact of a case having been started (or an administrative suspension pending investigation having been imposed) should be informed to LOTO, other senior politicians, or the public.	3	For the aforementioned reasons, this recommendation will not be progressed (as it relates to the two case examiners and/or the separate Directorate).

**The Forde Report**  
**Category 3 - Mapping of Recommendations and Analysis**

122	2.17	Once matters have been referred to a full hearing of a Complaints and Discipline Panel, appropriate steps should be taken to ensure that there are no conflicts of interest or records of potentially prejudicial comments – such as to disqualify any member of that Panel from hearing the case. The final preparations may mean refining statements and charges which should be date and time specific, where possible.	3	For the aforementioned reasons, this recommendation will not be progressed (as it relates to the two case examiners and/or the separate Directorate).
122	2.18	management dealing with issues of disclosure, length of hearing and order of witnesses, by way of example. A case manager, independent of the case should hear submissions from both sides and then set time specific directions. These can be conducted by telephone conference in most cases. Consideration should be given in particularly complex cases to the appointment of a legally qualified case manager.	3	For the aforementioned reasons, this recommendation will not be progressed (as it relates to the two case examiners and/or the separate Directorate).
122	2.19	At least 28 days before the hearing, the head of Directorate, or their deputy, should send a Notice of Hearing detailing the allegations, any facts upon which the allegations are based and a bundle of evidence.	3	For the aforementioned reasons, this recommendation will not be progressed (as it relates to the two case examiners and/or the separate Directorate).
122	2.2	No less than 14 days thereafter, the respondent should be required to file a witness statement in relation to any disputed allegations or facts as well as a schedule of admitted facts and allegations and the basis of any admission.	3	For the aforementioned reasons, this recommendation will not be progressed (as it relates to the two case examiners and/or the separate Directorate).

**The Forde Report**  
**Category 3 - Mapping of Recommendations and Analysis**

122	2.21	At least seven days before the hearing, if so advised, the person assigned to present the case (who may be a caseworker, case manager or (although rarely) the head of the Directorate or a deputy, should serve a skeleton argument in response upon the hearing panel and the respondent.	3	For the aforementioned reasons, this recommendation will not be progressed (as it relates to the two case examiners and/or the separate Directorate).
122	2.22	The hearing should be chaired by an individual with substantive experience of regulation, and regulatory systems, and consideration should be given to appointing a person who is independent of the NEC.	3	For the aforementioned reasons, this recommendation will not be progressed (as it relates to the two case examiners and/or the separate Directorate).
122	2.23	Consideration should be given to appointing a legally qualified chair of a Complaints and Discipline Panel in any complex case where the respondent is at risk of suspension or expulsion from the Party, or where the Respondent relies on a legally complex defence.	3	For the aforementioned reasons, this recommendation will not be progressed (as it relates to the two case examiners and/or the separate Directorate).
122	2.24	The caseworker or case manager responsible for presenting the matter should set out the background to the complaint and provide details of the investigation, followed by any factual or expert witnesses.	3	For the aforementioned reasons, this recommendation will not be progressed (as it relates to the two case examiners and/or the separate Directorate).
122	2.25	The respondent should then present their case, give evidence and call witnesses.	3	For the aforementioned reasons, this recommendation will not be progressed (as it relates to the two case examiners and/or the separate Directorate).

**The Forde Report**  
**Category 3 - Mapping of Recommendations and Analysis**

122	2.26	At the conclusion of the respondent's case, the Panel should retire to consider their decision on the facts and produce a short reasoned decision supporting their factual determinations. The decision should be recorded in writing and made available to the complainant and the respondent.	3	For the aforementioned reasons, this recommendation will not be progressed (as it relates to the two case examiners and/or the separate Directorate).
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Page number	Recommendation number	Recommendation	Analysis	Comments
<b>4. Systems</b>				
123	4.1	Subject to paragraph 4.2, the fact of a complaint being in the disciplinary process and the stage it has reached in that process, and any forward dates for hearings/appeals should – except in abnormally delicate circumstances – be available to Party members and the media.	3	This risks the Party being in breach of the Data Protection Act 2018 and our confidentiality and GDPR obligations. We already publish headline, anonymised figures in the Party's Annual Report, and we also regularly publish complaints and disciplinary outcome statistics on the Party's website. Accordingly, we do not propose to deviate from this practice here.
123	4.2	Any health issues should be dealt with in private unless any party or witness wishes to place a health issue or issues into the public domain.	3	This risks the Party being in breach of the Data Protection Act 2018 and our confidentiality and GDPR obligations. We already publish headline, anonymised figures in the Party's Annual Report, and we also regularly publish complaints and disciplinary outcome statistics on the Party's website. Accordingly, we do not propose to deviate from this practice here.
126	4.3	compassion training, starting with senior staff at HQ and LOTO;	3	We have gone through a training needs analysis for staff which led to the development of the Operation Change Training Plan. As part of that, and as communicated to the NEC, we had to prioritise what training needs to focus on and this specific training was not included as a result of this needs analysis.

Page number	Recommendation number	Recommendation	Analysis	Comments
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**The Forde Report**  
**Category 3 - Mapping of Recommendations and Analysis**

<b>1. Scope of revised social media policy</b>				
127	1.1	We set out below our recommended revised policy for staff. The Party should also conduct a review of its social media policy for Party members, albeit the policy for members will necessarily be less stringent than that for staff.	3	Whilst we will always recommend keeping guidelines, procedures, policies and codes of conduct under review, the Social Media Policy Code of Conduct was amended by the NEC in March 2021 to comply with the legal obligations the Party made under the EHRC Action Plan. Accordingly, it is necessary to ensure that our legal obligations towards the EHRC are foremost in the Party's mind.
128	1.4	If algorithms are to be adopted to carry out pre-membership social media searches, they need to be professionally advised upon following wide consultation in relation to the search terms.	3	This is not currently done by the Party and so is not relevant. This also appears to conflate prospective employees with prospective members.

**Staff Recruitment & Management**

Page number	Recommendation number	Recommendation	Analysis	Comments
<b>3. Staff Development</b>				
132	1.4	Consideration should be given to whether shortlisting exercises should be “blind” as to candidates’ names and any other demographic details, where appropriate (in particular for entry level positions).	3	We fully recognise that bias and discrimination exist but believe that it is best to tackle it head on through active measures and management rather than trying to preclude relevant information. We have run an extensive programme of unconscious bias training and we train members of recruitment panels. We have recently been successful in running a recruitment programme for 30 Trainee Campaign Organisers and managed to achieve the diverse outcome we were striving for. We intend to build on this success and do not propose to adopt this practice at this time.

**The Forde Report**  
**Category 3 - Mapping of Recommendations and Analysis**

133	3.8	The results of the regular one to one supervision meetings between line managers and their direct reports, which we recommend should be summarised and recorded in writing.	3	This recommendation will not be progressed. What is vital in a successful and effective relationship between a line manager and a team member is that there is regular, open, two way communication. It is best that most of this contact is verbal and sometimes informal. Objectives are written down and they are reviewed and updated. We do not believe it is necessary for managers to make a written record of meetings with members of their team unless there is a significant and difficult issue which needs to be resolved.
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**LOTO and HQ Relationship**

Page number	Recommendation number	Recommendation	Analysis	Comments
<i>Future relations between LOTO and HQ/regional staff</i>				
134	4	The practice of designating senior LOTO staff as directors of the Party, within the senior management structure, should cease.	3	The organisation design we introduced on the back of Organise to Win is based on ensuring that the Party has integrated teams some of which will be led people based in the Leader's Office.

Page number	Recommendation number	Recommendation	Analysis	Comments
<i>Detailed recommendations on future relations between LOTO and HQ/regional staff</i>				
134	1	The clearer demarcation of roles that we recommend should be written into the Rule Book and/or recorded as a decision of Conference which sets out clearly the differing roles that LOTO and HQ should play (therefore avoiding the duplication of roles and posts between LOTO and HQ, respectively, about which we have heard evidence).	3	The Rule Book is the Party's governing contract with members and, accordingly, great care must be exercised when considering making amendments to it, as well as what is appropriate to be included in the Rule Book in the first place. To follow through on this action risks disrupting the operational strategy that an organisation usually delegates to its strategic and executive leadership - for example, the Leader, the NEC, the General Secretary, senior staff. Further, as the Rule Book may only be amended annually at Annual Conference, we do not want to risk hard-coding something into the Rule Book that then can't be changed until the following Annual Conference.