

Mr Ken Livingstone

16 February 2016

Ref: A080227

Dear Mr Livingstone

Notice of charges and suspension from holding office or representing the Labour Party

By letter dated 28 April 2016 you were notified that you were suspended from holding office or representing the Labour Party, and were ineligible to attend Labour Party meetings or seek office or be considered for selection as a candidate, pending the outcome of an internal Party investigation (see Tab 1 of the Exhibit Bundle ("the Bundle") enclosed herewith).

You were interviewed on 16 May 2016 by the Labour Party's Head of Disputes and Discipline, Katherine Buckingham at which she asked you about the many comments you made in the media, in relation to anti-Semitism within the Labour Party, and social media posts published by Ms Shah (see Tab 2 of the Bundle). Following that interview, Ms Buckingham drew up a report (see Tab 3 of the Bundle), recommending that the National Executive Committee ("NEC") refer your case to a hearing of the National Constitutional Committee ("NCC") for possible disciplinary action.

On 5 July 2016, the NEC's Disputes Panel considered Ms Buckingham's report, and agreed to refer the matter to a hearing of the NCC, pursuant to Chapter 6, clause 1, paragraph 1A of the Labour Party Rule Book 2016 ("the Party Rules") (see page 3 of Tab 4 of the Bundle).

This letter sets out the charges against you to be considered by the NCC, and includes a summary of the facts and evidence relied on in relation to each of those charges.

Background:

1. It is necessary briefly to set out the background to the charges against you. Prior to her election as a Member of Parliament, Ms Shah posted the following material on Facebook:

- (1) On 29 July 2014 Ms Shah published a post encouraging individuals to vote in a poll run by the *Daily Mirror*. The poll asked readers to vote on whether they agreed with Lord Prescott's view that Israel was committing war crimes in Gaza. Ms Shah commented in her post: "*The Jews are rallying to the poll at the bottom and there are now 87% disagreeing and 13% agreeing.*" (see "Post 2" at page 3 of Tab 5 of the Bundle).
- (2) On 5 August 2014 Ms Shah published a post which included the following text beneath a map of the United States of America with the State of Israel superimposed upon it (see Post 1" at page 1 of Tab 5 of the Bundle):

*"SOLUTION FOR ISRAEL-PALESTINE CONFLICT
RELOCATE ISRAEL INTO UNITED STATES
HIGHLIGHTS*

Israelis are most loved by Americans.

- *Americans will welcome Israelis with open arms into their homes.*
- *America has plenty of land to accommodate Israel as its 51st state.*
- *Israel can have a real safe Jewish state surrounded by friendly states.*
- *America will no longer have to spend £3 billion tax payer money per year for Israel's defense.*
- *the transportation costs will be less than 3 years of defense spending.*
- *Palestinians will get their land back.*
- *Middle East will again be peaceful without foreign interference.*
- *Oil prices will go down, inflation will go down, whole world will be happy."*

Within the above post Ms Shah added an icon of a smiling face, and stated '*Problem solved*'.

In reply to a comment on this post which stated that '*A more realistic solution might be [a] one state solution where Muslims n jews live ad [sic] equal in a democratic state. Similar to South African solution*', Ms Shah commented that the '*Only problem with that is Israel would need to return all the land and farms it has stolen and give the Palestinians rights which is not possible*'. As a result, she indicated that she would lobby the President of the United States (Barack Obama) and the Prime Minister (David Cameron) to adopt the idea (see "Comments on post 1" at page 2 of Tab 5 of the Bundle).

- (3) On 5 September 2014 Ms Shah published a post containing an image of Martin Luther King with the text "*Never forget that everything Hitler did in Germany was legal*", above which she had commented "*#APARTHEID ISRAEL*" (see "Post 3" of Tab 5 of the Bundle).
2. The above posts were republished by the Guido Fawkes political blog on Tuesday 26 April 2016. Ms Shah admitted that she was responsible for the posts and stated that she would be making a full apology. On the same day, Ms Shah stepped down as Parliamentary Private Secretary to the Shadow Chancellor, John McDonnell MP.
3. On Wednesday 27 April Ms Shah made a full apology to the House of Commons (see Tab 6 of the Bundle). In that apology, she stated:

“...I hope you will allow me to say that I fully acknowledge that I have made a mistake and I wholeheartedly apologise to this House for the words I used before I became a member. I accept and understand that the words I used caused upset and hurt to the Jewish community and I deeply regret that. Antisemitism is racism, full stop... I truly regret what I did and I hope, I sincerely hope, that this House will accept my profound apology”.

4. This apology was accepted by the Leader of the Labour Party, Jeremy Corbyn MP. On 27 April 2016, Ms Shah was suspended from the Labour Party pending further investigation. On 5 July 2016, the suspension was lifted in light of Ms Shah’s apology and her obvious and deep regret caused by her words to the Jewish community.
5. Ms Shah accepted, implicitly in her apology to the House of Commons and expressly in an interview with BBC Radio 4’s “The World At One” programme (see Tab 7 of the Bundle), that the content of her posts was anti-Semitic.

Relevant Party Rules:

6. I set out below relevant provisions of the Party Rules, which state, as far as material:
 - (1) In relation to the aims and principles of the Labour Party, under Chapter 1 (“Constitutional Rules”):
 - (a) The Labour Party is a democratic socialist party that seeks to create a community where people live together freely *“in the spirit of solidarity, tolerance and respect”* (chapter 1, clause IV, paragraph 2.A);
 - (b) The Labour Party works for a society that *“delivers people from the tyranny of ...prejudice”* (chapter 1, clause IV paragraph 2.B).
 - (2) As the administrative authority of the Labour Party, the NEC is responsible for ensuring an equal opportunities policy is in place; that the *“Labour Party reflects the communities it serves”*; and that *“policies practices and procedures enshrine principles of equalities, inclusion and diversity”*. The NEC *“confirms the policy of promoting equality, tackling under representation and not unfairly discriminating against anyone including on the basis of gender, age, race, sexual orientation and gender identity, disability or religious beliefs”* (chapter 1, clause VIII, paragraph 3.N).
 - (3) Under Chapter 2 (“Membership Rules”):
 - (a) *“To be and remain eligible for membership, each individual member must: (A) accept and conform to the constitution, programme, principles and policies of the Party”* (chapter 2, clause 1, paragraph 6.A);
 - (b) *“No member of the Party shall 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...”* (chapter 2, clause 1, paragraph 8).

- (4) The NCC has duties and powers including to determine by hearing or otherwise such disciplinary matters as are presented to it by the officers of the Labour Party on the instructions of the NEC: chapter 1, clause IX, paragraph 2.B. The process for determining such disciplinary matters is set out in Appendix 6 to the Party Rules.

List of Charges:

7. The charge against you is that you engaged in conduct that in the opinion of the NEC was prejudicial and/or grossly detrimental to the Labour Party (chapter 2, clause 1 paragraph 8). The particulars of the charge are set out below.

(i) In media interviews between 28 April 2016 and 30 April 2016 you repeatedly denied that social media posts made by Ms Shah were anti-Semitic, and repeatedly sought to minimise their offensive/scurrilous nature by stating that they were merely criticism of Israeli policy at a time of conflict with the Palestinians, and by alleging that scrutiny over her conduct was merely an extension of an apparent smear campaign to undermine and disrupt the leadership of Jeremy Corbyn MP.

8. On Thursday 28 April 2016 you appeared on LBC Radio with the presenter Ian Dale (see Tab 8 of the Bundle). You stated that you didn't think that what Ms Shah had said was anti-Semitic but was 'over the top and offensive'. Ms Shah's posts were "*a bit of criticism of Israel and Israel's supporters at a time – let's not forget this – in that horrendous conflict...*", and that in the context of events in Gaza it was "*understandable why people go over the top*" (emphasis added).
9. You repeated these comments later that day on BBC London. During an interview with the presenter Vanessa Feltz, you stated that the above social media posts made by Ms Shah in 2014 were not anti-Semitic, but were 'over the top' (see Tab 9 of the Bundle), and were made at the time of 'another brutal Israeli attack on the Palestinians'.
10. You repeated the view that Ms Shah's remarks were not anti-Semitic in an interview on the "Daily Politics Show" on the BBC on 28 April 2016 (see Tab 10 of the Bundle), and again in an interview with LBC Radio on 30 April 2016 (see Tab 12 of the Bundle).
11. In your interview with LBC Radio on 30 April 2016, you said that 'what this is all about is actually the struggle of the embittered old Blairite MPs to try and get rid of Jeremy Corbyn. They want to whip this issue up.' You repeated the same point on several further occasions during that interview.
12. It is widely accepted and obvious that Ms Shah's posts were anti-Semitic and offensive. Indeed, as stated above, Ms Shah herself accepted that her comments were anti-Semitic. So, too, did the spokesman for Jeremy Corbyn MP.
13. The references to a "solution", "transportation", and "rallying" in relation to the State of Israel use language connected with the atrocities committed against Jewish people in and by Nazi

Germany in the 1930s and 40s, which is deeply offensive. Similarly, comparing modern day Israel to Nazi Germany (see "Post 3" of Tab 5 of the Bundle) and making express reference to Hitler is deeply offensive, provocative and highly insensitive to the Jewish families who suffered great loss at the hands of Hitler and Nazi Germany. It diminishes the atrocities committed in and by Nazi Germany against the Jewish people, and suggests that the acts of Israel can be equated to those of the regime responsible for the Holocaust. This contravenes the definition of anti-Semitism adopted by the Labour Party (see the International Holocaust Remembrance Alliance (IHRA) definition at Tab 13 of the Bundle).

14. You have yourself stated that 'ethnic cleansing of Jews would be anti-Semitic' (see Q217 at page 55 of Tab 14 of the Bundle; this tab being the Home Affairs Select Committee Oral Evidence: The Rise of Antisemitism, HC 136 on 14 June 2016). In her posts, Ms Shah was expressly supporting the relocation of Jews from Israel to the United States. Ms Shah was not merely rejecting the *Two-State solution* to the Israel-Palestine situation (which represents Labour Party policy), something which you have stated that you too support [see Q87 at page 31 of Tab 14 of the Bundle), but was even rejecting the One-State solution. Ms Shah was not simply using or referencing an academic study which showed that 'it would be cheaper if all Israel's Jews moved to America because America spends something like \$3 billion a year supporting the Israeli state'¹. She was advocating that removal and said that she would recommend it to the President of the United States and the British Prime Minister.
15. Nor was Ms Shah 'simply saying' (as you stated to LBC Radio on 28 April 2016) that 'at the end of the Second World War, that an awful lot of Jewish survivors of the horrors of the Holocaust would much rather have been absorbed into Britain or America, they didn't particularly want to go to a semi-desert and start growing olive trees'. As was rightly pointed out to you by the interviewer: 'That's nothing to do with this argument here'.
16. That being so, any repeated refusal to recognise the anti-Semitic nature of those remarks on the part of senior office-holders of the Labour Party is itself likely to prejudice the Party by causing dismay among the Jewish community and indeed Labour supporters and members more generally.
17. As a former Mayor of London, and as an elected member of the NEC repeatedly called upon to represent and speak on behalf of the Labour Party publicly, the very highest standards of ethics and professionalism are expected and required from you. Given the sensitivity of the subject matter, obvious care needed to be taken to appreciate exactly what Ms Shah had posted/written, and to respond to it appropriately. In that context, the following conduct of yours was prejudicial and grossly detrimental to the Labour Party:
 - (1) Appearing in the public arena, and repeatedly denying the obvious truth that Ms Shah's posts were anti-Semitic, which their author herself accepted;

¹ Your words to the Home Affairs Select Committee (see Q98 at page 33 of Tab 14 of the Bundle)

- (2) Describing Ms Shah's statements as doing "*some silly things*", as "*a bit of criticism of Israel and Israel's supporters*", and as "*understandable*", albeit "*over the top*", all of which appear to be attempts to minimise their highly offensive and/or anti-Semitic nature.
- (3) Alleging that scrutiny over Ms Shah's conduct was merely an extension of an apparent smear campaign to undermine and disrupt the leadership of Jeremy Corbyn MP, when – on its face – her statements were highly offensive and/or anti-Semitic in nature.

(ii) In a media interview on BBC London with Vanessa Feltz on 28 April 2016 you made further comments about Hitler and Zionism, which you have subsequently repeated on a number of occasions.

18. As referred to above, on 28 April 2016 you appeared on a radio broadcast show on BBC Radio London with Vanessa Feltz (see Tab 9 of the Bundle). During that interview, Ms Feltz referred to Ms Shah as having '*talked about relocating Israel to America; about what Hitler did being legal and she talked about the Jews 'rallying'. She used the word Jews not Israelis or Israel.*' She then asked you whether '*You didn't find that to be anti-Semitic*'. In response you stated that:

"It's completely over the top but it's not anti-Semitic. Let's remember when Hitler won his election in 1932, his policy then was that Jews should be moved to Israel. He was supporting Zionism – this was before he went mad and ended up killing six million Jews." (Emphasis added)

19. The comments about Hitler's "policy" and that he was "supporting" Zionism had no connection to the question that was being asked by Ms Feltz. They did not explain whether or not what Ms Shah had said and done was anti-Semitic as had been asked of you.
20. Further, you repeated those remarks, or the gist of those remarks, on a number of subsequent occasions, including on 28 April 2016 in an interview on "The World at One" (see Tab 11 of the Bundle); and on 30 April 2016 in an interview with LBC Radio (Tab 12 of the Bundle).
21. Many people found those comments to be offensive including those within the Labour Party, in communities the Party seeks to represent and among those who represent the Jewish community (see paragraphs 97, 100-101, 113 and 119 of Tab 15 of the Bundle, the statement of Jeremy Newmark on behalf of the Jewish Labour Movement at Tab 16 of the Bundle, and the witness statement of Gill Campbell at Tab 17 of the Bundle).
22. You deliberately introduced Hitler's alleged support for Zionism into the discussion with Ms Feltz, in the knowledge that, or reckless as to whether, it would cause offence to members of the Jewish community².

² As evidence of your longstanding knowledge of the potential for discussion of relations between Hitler and Zionism to cause widespread offence in the Jewish community, see for example the discussion at pp. 221-223 of your autobiography ("*You Can't Say That*", Faber and Faber 2011):

[p.223] "*Many British Jews were traumatised by the revelations in Lenni Brenner's Book ["Zionism in the Age of Dictators", published in 1983]. Lenni was denounced and Ted Knight and I were abused for reviewing it in Labour Herald. A public*

23. In so doing, you have acted in a way which is prejudicial and/or grossly detrimental to the Labour Party.
24. Further or alternatively, it should have been clear to you that to state that Hitler 'supported' Zionism, particularly in a context where Israeli government policy was criticised, was likely deeply to offend the Jewish community by implying a connection between Nazism and/or Fascism and the existence and/or policies of the State of Israel.
25. In so stating, you have acted in a way which is prejudicial and/or grossly detrimental to the Labour Party.

(iii) You have refused to apologise for the comment you made about Hitler's "support" for Zionism, and have repeatedly attempted to justify it on the grounds of historical accuracy.

26. You have refused to apologise for your remark about Hitler 'supporting' Zionism, and indeed have sought to justify it on the basis of its alleged historical accuracy. Your refusal to apologise, and repeated attempts to justify your remark, have further prejudiced and/or caused gross detriment to the Labour Party with the effect of diminishing the aims and principles of the Labour Party as defined above which you agreed to abide by through your membership.
27. In your interview with LBC Radio on 30 April 2016 you were repeatedly invited to apologise or express any regret for your comment³, and you pointedly refused to do so (see Tab 12 of the Bundle).
28. Further, you have sought to justify your remark on the grounds of historical accuracy. You did this *inter alia* in:
- (1) Your interview on BBC2 on the "Daily Politics Show" on 28 April 2016 (see Tab 10 of the Bundle);
 - (2) Your interview on BBC Radio 4 on "The World at One" on 28 April 2016 (see Tab 11 of the Bundle); and
 - (3) Your interview with LBC on 30 April 2016 (see Tab 12 of the Bundle).
29. The repeated attempt to justify your comment on the basis that it was historically accurate is prejudicial and/or grossly detrimental to the Party in and of itself.
30. The historical accuracy, or otherwise, of whether Hitler "*was supporting Zionism*" in 1932 is not the central issue for these purposes (although, for the avoidance of doubt, it is not accepted that this characterisation is historically accurate⁴) As stated above, to assert that Hitler

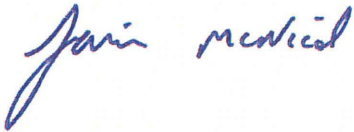
meeting at which Lenni discussed his book was attacked by Zionists, who hospitalised one of the platform speakers."

³ You did say 'Look, if anyone's upset by this of course I'm sorry about that'. This does not amount to an apology or regret for your actions. You also repeatedly expressed regret at the disruption that was caused. This does not amount to an apology or regret for your actions.

⁴ The common understanding of the term to "support" would not describe the process of allowing German Jews to leave on the basis that they forfeited the bulk of their assets, and where the Zionist movement had to agree to buy German goods: c.f. your description of what took place to the Home Affairs Select Committee, Q110. One of the world's foremost

“supported” Zionism, in a context where Israeli government policy is criticised, is likely to deeply offend the Jewish community by implying a connection between Nazism/Fascism and the State of Israel. Repeatedly to attempt to justify the comment on the basis of historical accuracy only compounds that offence, by evincing an apparent lack of awareness of, or concern for, the Jewish community’s justified sensitivity at such an implication⁵.

Yours sincerely



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authorities on the Holocaust, Yehuda Bauer, has explained Hitler’s position in respect of the agreement between the Jewish Agency and the Nazi government that German Jews could leave for Palestine on this basis (“Ha’avarah”) as follows:

“German attitudes towards Ha’avarah changed, we would argue, in three phases: at first they were supportive because of the desire to fight a threatening Jewish boycott (1933-34); then the desire to see the Jews leave Germany was paramount (1934-38), and finally came the dismantling of Ha’avarah (1938-39). While there is no evidence of Hitler’s direct involvement in the first stage, his influence becomes more apparent in the second stage and in the transition to the third. His impact there is decisive – without his continued support Ha’avarah would not have survived the 1936-37 crises. The reason for it, clearly, was his overriding desire to rid Germany of its Jews during the Four-Year Plan as executed by Goering on his orders. But Hitler was also behind the Goering policy after the Kristallnacht pogrom to confiscate Jewish property and drive the Jews out of the German economy, which parallels the third stage of the attitude towards Ha’avarah...There was in fact no contradiction: the Jews would have to go, one way or the other (“so oder so”, as Goering put it) – by arrangement, preferably with the Western powers, and with some capital, or by brutal force, terrorized into emigration, with their property confiscated.” [p.27 of ‘Jews for Sale? Nazi-Jewish Negotiations, 1933-1945’ Yale, 1994]

⁵ You also sought to justify your comments on the basis that (as you stated to LBC Radio on 30 April 2016) the Prime Minister of Israel, Benyamin Netanyahu, had said “Hitler didn’t want to exterminate the Jews, but only to expel them”. You later commented that he had said “exactly what I said”. Apart from the fact that Prime Minister’s broader remarks were heavily criticized, he had not said “exactly” what you said, or anything of the sort (see the transcript of Benyamin Netanyahu’s speech at the 37th Zionist Congress at Tab 18 of the Bundle; the relevant paragraph being highlighted in green). He had not said that Hitler was “supporting” Zionism.