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Case No: QB-2020-002357

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 13/08/2021

Before :

THE HONOURABLE MRS JUSTICE STEYN DBE

Between :

JOHN WARE	<u>Claimant</u>
- and -	
NAOMI WIMBORNE-IDRISSI	<u>First</u>
-and-	<u>Defendant</u>
JEWISH VOICE FOR LABOUR LTD	
-and-	<u>Second</u>
RICHARD KUPER	<u>Defendant</u>
	<u>Third</u>
	<u>Defendant</u>

Eric Shannon (instructed by **Patron Law**) for the **Claimant**
Richard Munden (instructed by **Simons Muirhead & Burton LLP**) for the **Defendants**

Judgment without a hearing pursuant to CPR 23.8(b)

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....
THE HONOURABLE MRS JUSTICE STEYN DBE

Mrs Justice Steyn :

A. Introduction

1. This is the judgment after a trial of preliminary issues relating to the meaning of the words complained of in a claim for libel. The words complained of by the Claimant derive from two publications. The first publication is The Jeremy Vine programme broadcast on Radio 2 on 11 July 2019, on which the First Defendant, Ms Wimborne-Idrissi, was interviewed (along with Lord Falconer) by Jeremy Vine (“the First Publication”). The second is a page from the website of Jewish Voice for Labour on which a post from the First Defendant’s Facebook page was published, on 11 July 2019 (“the Second Publication”).
2. A transcript of the First Publication is set out in Appendix A to this judgment. Paragraph numbers have been added in square brackets. The underlined sections are the specific words that the Claimant has selected for complaint. A copy of the Second Publication is set out in Appendix B. Numbers have been added in square brackets to identify the individual letters or messages. Again, the specific words complained of are underlined; double-underlining indicates that the words were a hyperlink to further material. The balance of each publication is set out because the Court must have regard to the context in which the words appeared.
3. The claim was issued on 7 July 2020. The Particulars of Claim describe the Claimant, Mr Ware, as a journalist, television presenter and broadcaster widely known and recognised in the field of news, politics and current affairs. On 10 July 2019, a Panorama programme entitled “*Is the Labour Party Anti-Semitic?*”, which was presented by Mr Ware and for which he was the lead journalist and reporter, was broadcast on BBC One. The Second Defendant is Jewish Voice for Labour (“JVL”) and, according to the Particulars of Claim, Ms Wimborne-Idrissi is the Media Officer for JVL and Mr Kuper is the editor of JVL’s website.
4. The preliminary issues for determination, in accordance with the consent order made by Master Eastman on 7 October 2020, are:
 - “(1) Whether, for the purposes of the Claimant’s defamation claim, the words complained of on the Claim Form and set out at paragraphs 6 and 14 of the Particulars of Claim bear the meanings pleaded; and, if not, what natural and ordinary meaning the words bear;
 - (2) Whether those meanings are defamatory at common law;
 - (3) Which parts of those meanings are statements of fact and which are statements of opinion; and
 - (4) Whether, in respect of those parts which are statements of opinion, the statement indicated, whether in general or specific terms, the basis of the opinion.”

5. In accordance with the terms of the consent order, I have determined the preliminary issues without a hearing, based on written submissions (including brief reply submissions).
6. I adopted the standard preparatory approach to the determination of meaning in a defamation claim of listening to the First Publication and reading the Second Publication, and forming a provisional view about the meanings of both publications before considering the parties' arguments.
7. Save to the extent that this judgment has been handed down in accordance with the Covid-19 Protocol, I have adopted the procedure described by Nicklin J in *Hewson v Times Newspapers Ltd* [2019] EWHC 650 (QB) at [25].

B. The Law

Ascertainment of meaning - general principles

8. The principles to be applied when determining the natural and ordinary meaning of the words complained of are well-established and were not the subject of dispute.
9. The Court's task is to determine the single natural and ordinary meaning of the words complained of. It is well recognised that there is an artificiality in choosing a single meaning from a series of words that individual listeners or readers may understand in different ways, but this approach is well-established and it provides a practicable, workable solution: see *Stocker v Stocker* [2019] UKSC 17, [2020] AC 593, per Lord Kerr of Tonaghmore JSC at [33]-[34].
10. The focus is on what the ordinary reasonable listener to the radio programme or reader of the website would consider the words to mean. That is the touchstone. It is the "court's duty to step aside from a lawyerly analysis": see *Stocker v Stocker* at [37] to [38].
11. The key principles derived from the authorities were helpfully distilled and re-stated by Nicklin J in *Koutsogiannis v Random House Group Ltd* [2019] EWHC 48 (QB), [2020] 4 WLR 25 at [12] - references to "readers" apply equally to "listeners":

“i) The governing principle is reasonableness.

ii) The intention of the publisher is irrelevant.

iii) The hypothetical reasonable reader is not naïve but he is not unduly suspicious. He can read between the lines. He can read in an implication more readily than a lawyer and may indulge in a certain amount of loose thinking but he must be treated as being a man who is not avid for scandal and someone who does not, and should not, select one bad meaning where other non-defamatory meanings are available. A reader who always adopts a bad meaning where a less serious or non-defamatory meaning is available is not reasonable: s/he is avid for scandal. But always to adopt the less derogatory meaning would also be unreasonable: it would be naïve.

iv) Over-elaborate analysis should be avoided and the court should certainly not take a too literal approach to the task.

v) Consequently, a judge providing written reasons for conclusions on meaning should not fall into the trap of conducting too detailed an analysis of the various passages relied on by the respective parties.

vi) Any meaning that emerges as the produce of some strained, or forced, or utterly unreasonable interpretation should be rejected.

vii) It follows that it is not enough to say that by some person or another the words might be understood in a defamatory sense.

viii) The publication must be read as a whole, and any 'bane and antidote' taken together. Sometimes, the context will clothe the words in a more serious defamatory meaning (for example the classic "rogues' gallery" case). In other cases, the context will weaken (even extinguish altogether) the defamatory meaning that the words would bear if they were read in isolation (e.g. bane and antidote cases).

ix) In order to determine the natural and ordinary meaning of the statement of which the claimant complains, it is necessary to take into account the context in which it appeared and the mode of publication.

x) No evidence, beyond publication complained of, is admissible in determining the natural and ordinary meaning.

xi) The hypothetical reader is taken to be representative of those who would read the publication in question. The court can take judicial notice of facts which are common knowledge, but should beware of reliance on impressionistic assessments of the characteristics of a publication's readership.

xii) Judges should have regard to the impression the article has made upon them themselves in considering what impact it would have made on the hypothetical reasonable reader.

xiii) In determining the single meaning, the court is free to choose the correct meaning; it is not bound by the meanings advanced by the parties (save that it cannot find a meaning that is more injurious than the claimant's pleaded meaning)."

12. The parties particularly emphasise that it is the entire publication that must be considered (principle viii) and the importance of the context in which the statement was made (principle ix), as reiterated in *Stocker v Stocker* at [38]-[40]. As the Defendants submit, consideration of the entire publication necessarily includes any statements made by persons other than the defendant, which may affect the overall meaning that

the reasonable reader or listener would take the words complained of about the claimant to bear.

13. No special rules of interpretation apply to political speech, though the political context of the statements complained of is a consideration to which the court will have regard when determining meaning. As Saini J observed in *Ware v French* [2021] EWHC 384 (QB) at [9]:

“reasonable readers understand that political discourse is often passionate and is not as precise as, say, financial journalism. There is a particular need to avoid over-analysis when determining the meaning of political speech.”

Levels of gravity

14. One of the issues between the parties is the level of gravity at which the meaning, whatever it is, is pitched. The Claimant contends for a *Chase* level one meaning and the Defendants meaning is at *Chase* level two. These terms come from *Chase v News Group Newspapers Ltd* [2002] EWCA Civ 1772, [2003] EMLR 11, in which Brooke LJ identified at [45] three types of defamatory allegation. Broadly, (1) the claimant is guilty of the act, (2) reasonable grounds to suspect that the claimant is guilty of the act; and (3) grounds to investigate whether the claimant has committed the act. They are a helpful shorthand, and should not be treated as a straitjacket forcing the court to select one of the three prescribed levels of meaning. Where words convey a meaning that falls between the *Chase* levels, this should be recognised in the court’s determination.

Fact or opinion

15. The first and second conditions for establishing the defence of honest opinion are that the statement complained of “was a statement of opinion” and it “indicated, whether in general or specific terms, the basis of the opinion”: s.3(2) and (3) of the Defamation Act 2013. The third and fourth preliminary issues reflect these two conditions.
16. The applicable principles when determining whether the words complained of contain allegations of fact or opinion are also well established. First, the statement must be recognisable as opinion, as distinct from an imputation of fact. Secondly, opinion is something which is or can reasonably be inferred to be a deduction, inference, conclusion, criticism, remark, observation etc. Thirdly, the test is an objective one and the ultimate determinant is how the words would strike the ordinary reasonable listener or reader. Fourthly, the subject-matter of words and their context may be important indicators of whether they are fact or opinion. Fifthly, not every inference counts as an opinion: context is everything. The bare statement of an inference, without reference to the facts on which it is based, may well appear as a statement of fact. Whereas the more clearly a statement indicates that it is based on some extraneous material, the more likely it is to strike the listener or reader as an expression of opinion. See *Koutsogiannis* per Nicklin J at [16], *Triplark Limited v Northwood Hall (Freehold) Limited* [2019] EWHC 3494 (QB) per Warby J at [15]-[17], and *Butt v Secretary of State for the Home Department* [2019] EWCA Civ 933, [2019] EMLR 23 at [25]-[39].
17. The authorities counsel against the dangers of determining the issues of meaning and whether the statement is fact or opinion in too linear or compartmentalised a fashion,

as the answers may throw light on each other. Although in setting out the legal principles and my determinations, I have addressed meaning before turning to whether the meaning is fact or opinion, I have considered the issues together, recognising that this is the approach that will best reflect the experience of the ordinary listener to the programme and reader of the website. See *Triplark v Northwood Hall (Freehold) Limited* [2019] EWHC 3494 (QB), Warby J at [16] and *Barron v Collins* [2015] EWHC 1125 (QB), Warby J at [20]-[21].

18. Similarly, in view of the principles referred to in paragraph 16 above, the questions whether a statement is fact or opinion and whether the statement indicated the basis of the opinion fall to be considered together

Defamatory at common law

19. The relevant common law test for whether a meaning is defamatory is uncontroversial. At common law, a meaning or imputation, whether it be one of fact or opinion, is defamatory only if it would tend to have a substantially adverse effect on the way that right-thinking members of society generally would treat the claimant. This encapsulates the common law threshold of seriousness and the consensus requirement. These are objective tests that turn on the inherent tendency of the words.

C. The Jeremy Vine programme

20. The first publication is a radio programme that lasts just short of 20 minutes. The programme is presented by Jeremy Vine who introduced the topic of anti-Semitism in the Labour Party and described the Panorama programme “*Is the Labour Party Anti-Semitic?*” which had been broadcast the previous evening, playing several clips from the Panorama programme in which individuals had spoken of their experiences. Mr Vine discussed the issue with John Pienaar, the BBC Deputy Political Editor, who described an ongoing battle between those on differing sides of the debate about the extent of anti-Semitism within the Labour Party and the way in which it was being addressed by the leadership.
21. Lord Falconer and Ms Wimborne-Idrissi were brought into the discussion about nine minutes into the programme, with Lord Falconer being introduced as a Labour peer who was critical of the party leadership’s handling of anti-Semitism and Ms Wimborne-Idrissi being described as a Jewish member of Labour on the side defending the party leader. They discussed allegations of anti-Semitism involving some specific individuals and then turned to the question whether there needed to be a process or inquiry to deal with the issue.
22. I have set out the full transcript of the programme in Appendix A. The words complained of (underlined below) were said during the final two minutes of the programme, from 17:11 to 19:04:

Speaker	Words spoken
Lord Falconer	Naomi, do you not think that, for example, the NEC confronted with allegations by Panorama, the BBC, which are a respectable organisation that there is all of this problem in the Labour Party, needs to do something about it? If a

	business, or a charity was confronted with allegations like this, its ruling body, whether it be the Board of Directors or the Trustees, would have to investigate. What they couldn't do is just say "We dismiss the BBC as people who are motivated by getting at Jeremy Corbyn". Surely the NEC has got to take responsibility for this?
Jeremy Vine	Ok, last word to you Naomi.
Naomi Wimborne-Idrissi	The NEC accepted the Chakrabarti report which was rubbished in that Panorama...
JV	...into antisemitism, right? Yeah.
NWI	Completely, absolutely, almost libellous, I would have thought what was said about that. The NEC had ideas in place as to how to implement that. They weren't implemented. But why not? Because at the time the people in control of the then called Governance Unit were the ones who were on Panorama last night spilling the beans. They are a totally partial group of people. There was no proper opposition to them. <u>The journalist who did that so called investigation has a terrible record of Islamophobia, far right politics, he's been disciplined at – BBC has had to apologise.</u>
JV	<u>Oh, wait a minute, you're talking about one of my colleagues here, John Ware?</u>
NWI	<u>I am, I am.</u>
JV	I don't think...
NWI	Look him up on Wikipedia
JV	well, hang on a minute, cos now I have to get him on...
NWI	Look him up!
JV	But I mean, the idea you just take down the journalist now, that's kinda desperate isn't it?
NWI	No it isn't
JV	He's one of the most distinguished journalists in the BBC!
NWI	We had an hour of Panorama time...
JV	...all right...
NWI	...lambasting Jeremy Corbyn, with no opposition...
JV	Thank you very much
NWI	...no Jewish people who had a different view.
JV	Thank you very much. Naomi Wimbourne-Idrissi from Jewish Voice for Labour defending Jeremy Corbyn and Lord Falconer, very worried, as you hear, Labour peer who is critical as to what's happening.

The parties' meanings

23. The Claimant has pleaded at §8 of the Particulars of Claim that the natural and ordinary meaning of the words complained of is:

"The Claimant had a terrible record of being guilty of islamophobia, had a terrible record of involvement in Far Right extremist politics, had been disciplined by the BBC, and the

BBC had had to apologise for his Islamophobia and Far Right politics.”

24. The Claimant contends this meaning contains only statements of fact (not opinion) and that it is defamatory at common law.
25. The Defendants’ meaning, as set out in a letter dated 19 October 2020, is:

“There were reasonable grounds to suspect that the Claimant, as a journalist (i) *had a terrible record of Islamophobia and far right politics*, (ii) had been disciplined; and (iii) the BBC had apologised in respect of his programmes.”
26. The Defendants submit their meaning is factual, save to the extent that they contend the italicised words are a statement of opinion. They submit the basis of the opinion has been indicated in general terms, namely, the Claimant’s journalistic record and his entry on Wikipedia. The Defendants acknowledge their meaning as a whole is defamatory at common law.

The parties’ submissions

27. The Claimant submits that the words complained of included a *Chase* level one meaning that the Claimant had a terrible record of (a) Islamophobia and (b) *involvement* in Far Right *extremist* politics. Whereas the Defendants contend for a *Chase* level two meaning that focuses on his record *as a journalist* and excludes any reference to *extremist* politics.
28. In support of the *Chase* level, the Claimant contends there is no suggestion in the words complained of that the allegation made was only at the level of ‘*suspicion*’, or ‘*reasonable grounds to suspect*’. On the contrary the words made plain that the allegations were being made bluntly and directly as established facts. The First Defendant confirmed this by stating “*Look him up on Wikipedia*”, and reiterating “*Look him up!*”. This clearly was a statement that the facts being alleged were capable of verification by looking at the Wikipedia website. There was no “bane and antidote”, rather emphasis by the First Defendant that she was right and had authority to back her up.
29. The Defendants submit that the listener is throughout presented with two sides to a highly charged debate. The context in which the words complained of were said, and the format of the programme, meant that the reasonable listener understood Ms Wimborne-Idrissi as being firmly on one side of the debate, defending Mr Corbyn, and would treat her words accordingly, recognising that Ms Wimborne-Idrissi was referring to the Claimant’s journalism.
30. In response to the Claimant’s argument that there is “no antidote”, the Defendants submit this misses the points that Mr Vine immediately called Ms Wimborne-Idrissi’s comment “kinda desperate” and told listeners that the Claimant is “one of the most distinguished journalists in the BBC”.
31. The Defendants rely on *Zarb-Cousin v Association of British Bookmakers* [2018] EWHC 2240 (QB) in which Nicklin J determined the meaning of a programme during

which the second defendant said, “It’s a complete misportrayal of our industry, deliberate, conscious by a man who’s funded by the casino industry” and the claimant immediately responded, “I’m not, no. I’m not. No, absolutely not. Wow.” Nicklin J found that the single meaning of the words complained of was at *Chase* level two, observing at [40]-[43]:

“[Counsel for the defendants], however, makes a powerful point as to what the viewer is to make of the emphatic denial that they see from the claimant immediately after the second claimant’s words. I think there is force in this submission. It is analogous to the newspaper article that reports allegations made against somebody but also includes a clear denial by that person. Whilst everything does depend on the context, the effect of that type of reporting is often not to create the impression of guilt but to leave in the mind of the ordinary reasonable reader grounds to suspect the person of guilt of the conduct alleged. Sometimes, the effect of the denial can itself be undone by the way it is reported. If a mount of evidence is presented in an article and there is a mealy-mouthed denial, the reader may conclude that the denial is insincere or not to be accepted.

Here, the relevant exchange is so quick the viewer is really only left with an allegation and a denial. Of course, context applies equally to this question. I do bear in mind in assessing the overall meaning that the second defendant, given his position, would have appeared to viewers to be somebody who would know about the industry. This allegation would not therefore be one that would be immediately discounted by viewers as not being reliable.

...

It would not be right to find that the meaning was one of guilt (*Chase* level 1) because that would be to ignore completely the clear denial of the claimant. The ordinary reasonable viewer would not ignore that in reaching his or her conclusion about the overall message or meaning that was conveyed. Certainly, in my judgment, the second defendant’s statement would give viewers real reason to doubt what the claimant had to say on this topic.”

32. The Defendants contend that Mr Vine’s immediate response that Ms Wimborne-Idrissi was getting “desperate”, and his description of the Claimant as in fact a highly distinguished reporter, cannot fail to have reduced the severity of the charge, taking the programme as a whole. A reasonable listener would be bound to pay more attention to the words of the impartial, longstanding and very well known presenter, Mr Vine, than to the words of Ms Wimborne-Idrissi.
33. The Claimant maintains that there was no “antidote” in this case because Mr Vine’s words were not *effective* in nullifying or reducing the sting of Ms Wimborne-Idrissi’s words. In *Zarb-Cousin*, the claimant was on the programme and able to deny the allegation, reducing the sting. Whereas in this case, Mr Ware was not present, and Mr

Vine was not in a position to refute the allegations. He did not have to hand the Claimant's detailed journalistic record, his disciplinary record, or details of (the lack of) any apology given for him, or his approach to Islam or the far right.

34. The Claimant submits the ordinary reasonable listener would understand that *Far Right* politics is an extreme. Far signifies an extremity. That is to say that in the context of the words complained of as a whole, and in the context of an allegation of Islamophobia, this was more than an allegation of merely right-wing politics within the mainstream. Rather it was an allegation that the Claimant was involved in something more sinister and extreme. Reference to the "Far Right" is understood to be synonymous with extreme politics and refers to those parties descending from Mosley's British Union of Fascists, through the National Front to the British National Party. Moreover, the allegation that the Far Right politics were a cause of discipline and apology shows that they were outside the norms of politics for which no apology or reprimand would ever be required or made.
35. The Defendants submit it would be unreasonable to take Ms Wimborne-Idrissi's reference to "the journalist" having a "terrible record" of "far right politics", in the context of a discussion of the BBC Panorama programme he had presented, as relating not to his journalistic record but to "involvement in far right extremist politics". Ms Wimborne-Idrissi was discussing the Claimant as a journalist. The words were followed by a reference to his being "disciplined at, the BBC has had to apologise" – the mention of the BBC being another clear pointer to this all being about his work as a journalist. The Defendants emphasise that the context (as the Claimant acknowledges) was criticism of the Claimant in relation to the Panorama programme which he had made, in other words, criticism of his journalism.
36. The Defendants contend that the word "extremist" was not used and if it were synonymous with "far right" as the Claimant contends, he would not be seeking to add the term in to the meaning. This is to seek to add the sort of adjective or adverb that Nicklin J warned against, as improperly "inferred opinions", in *Tinkler v Ferguson* [2018] EWHC 3563 (QB) at [37].
37. The Defendants further contend that Ms Wimborne-Idrissi did not state that the Claimant had been disciplined, and the BBC had apologised, *because* of Islamophobia or far right politics and there is no need to treat her words as if she did.
38. The Defendants contend the statement that the Claimant "had a terrible record of Islamophobia and far right politics" was a statement of opinion. They submit this was a reference to published journalism in the public domain and *Kemsley v Foot* [1952] AC 345 (summarised by Lord Phillips in *Joseph v Spiller* [2011] 1 AC 852 at [94]) shows that the bar for indicating the basis of the opinion is low, and satisfied. The Defendants contend that opinions can be and often are emphatically held and expressed. Ms Wimborne-Idrissi's reference to Wikipedia made plain that she was not purporting to reveal any new facts of her own, but rather was relying on extraneous material in the public domain.
39. The Defendants acknowledge that as this was a radio programme there was no hyperlink to Wikipedia. Nevertheless, they submit clear instructions were given to enable any listener with a smartphone or a computer to find the relevant page in seconds.

Decision

40. In my judgment, the reasonable listener would have understood the statement that the Claimant had been disciplined and that the BBC had had to apologise, as meaning the Claimant had been disciplined by the BBC in connection with allegations he had engaged in Islamophobia and far right politics, as a consequence of which the BBC had had to apologise for his conduct.
41. First, although it was not expressly stated who he had been disciplined by, the reference to the BBC's apology followed swiftly after the statement that he had been disciplined and, together with the context of the Claimant being understood throughout the programme to work for the BBC, would have given a reasonable listener the clear impression that he had been disciplined *by the BBC*.
42. Secondly, the reasonable listener would also have understood from the proximity of the statements, and the way in which his "*terrible record of Islamophobia, far right politics*" was revealed, that the disciplinary action, and the apology, arose out of allegations of Islamophobia and engagement in far right politics on the part of the Claimant. However, although the reasonable listener would have understood that his conduct had been such as to warrant an apology from the BBC, they would have been left unclear what conduct had warranted an apology. Knowing that the Claimant was a current BBC journalist and broadcaster, on a flagship BBC programme, described by Mr Vine as one of his most distinguished colleagues in the BBC, a reasonable listener would not have thought that the BBC had apologised "for his Islamophobia and Far Right politics".
43. Thirdly, insofar as it was said he had been disciplined and an apology issued for his conduct, the statement was at *Chase* level one. It was a statement of fact. The Claimant was not present and so he was unable to deny the allegation that he had been disciplined by the BBC, or any apology issued in respect of his conduct; and no one else on the programme refuted or cast doubt on this aspect of Ms Wimborne-Idrissi's assertion.
44. In my judgment, a reasonable listener would have understood the remainder of the words complained of to mean there are reasonable grounds to suspect that the Claimant has an extensive record of Islamophobia and of involvement in extreme, far right politics.
45. First, I agree with the Claimant that Ms Wimborne-Idrissi's use of the term "far right politics" would have been understood by a reasonable listener to be a reference to politics which are not within the mainstream. The impression that his politics are extreme is conveyed by the term "far right" combined with the allegation of Islamophobia. This impression is reinforced by the reference to disciplinary action as a reasonable listener would assume that involvement in mainstream politics would not lead an organisation such as the BBC to take such action.
46. Secondly, I reject the Defendants' contention that a reasonable listener would have understood Ms Wimborne-Idrissi's reference to "far right politics" to be a comment on the Claimant's journalism, rather than a statement of his engagement in far right politics. Coming at the end of the programme, when Ms Wimborne-Idrissi had just been offered the last word, her words would have come across to a reasonable listener as a

revelation about the man responsible for the programme that had been aired the night before.

47. Thirdly, in my view, the reference to the Claimant's "record" being "terrible" would have been understood by a reasonable listener to be a factual statement that the allegation was not of a single incident, but that the Claimant had an extensive history of Islamophobia and involvement in far right politics.
48. Fourthly, I agree with the Defendants that this aspect of the meaning is at *Chase* level two. While Ms Wimborne-Idrissi's statement taken on its own was undoubtedly an assertion at *Chase* level one, doubt as to whether the Claimant was guilty of having an extensive record of Islamophobia and involvement in extreme far right politics would have been thrown on that assertion for a reasonable listener by the fact that (i) the Claimant was described by Mr Vine as one of his most distinguished colleagues in the BBC; (ii) Mr Vine threw doubt on the accuracy of Ms Wimborne-Idrissi's comments by describing them as "desperate"; (iii) the Claimant would have been understood by such a listener to be a current BBC journalist and broadcaster, on a flagship BBC programme; (iv) a reasonable listener would have expected that he would not have been described or employed in this way if the BBC had been aware the Claimant had such a record; and (v) Ms Wimborne-Idrissi appeared to be basing her allegations on a Wikipedia entry.
49. Accordingly, I find that the natural and ordinary meaning of the words complained of is:
 - i) The Claimant has been disciplined by the BBC in connection with allegations he has engaged in Islamophobia and extreme, far right politics, as a consequence of which the BBC has had to apologise for his conduct; and
 - ii) There are reasonable grounds to suspect that the Claimant has an extensive record of Islamophobia and of involvement in extreme, far right politics.
50. No part of the meaning I have found is a statement of opinion. The first part of the meaning is obviously a statement of fact and it is not contended otherwise. The Defendants' contention that part of the meaning is a statement of opinion was premised on it being a comment on the Claimant's journalistic record, a premise I have rejected. In my judgment, both parts of the meaning I have found would have struck the reasonable listener as statements of fact.
51. Moreover, if (contrary to my view) the second part of the meaning may be said to be a comment, it was a bare comment. The suggestion during a radio interview that listeners look up the Claimant on Wikipedia does not have the effect of bringing to the listeners attention the basis for the comment. The position is quite different from reading an online article with, say, a single hyperlink that a reader is encouraged and likely to click on. A person listening to a radio programme would probably have to open a different device, such as a smartphone or computer, to undertake an internet search. This involves not only switching devices, but also changing the mode of access from listening to reading which many listeners may not be in a position to do (e.g. because they are engaged in another activity while listening to the radio, such as driving, running or cooking) or may not wish to do so. And the listener is not automatically directed to the

right page, as occurs when clicking on a hyperlink, but would have to look it up for themselves.

52. There is no dispute that the meaning is defamatory at common law and, in any event, I so find. The fourth preliminary issue does not arise in respect of the First Publication as I have not found that any part of the meaning is a statement of opinion.

D. The JVL website

53. On a page of the JVL website, under the heading “*Letters and complaints to the BBC about the Panorama programme*” appear the words “*Following on the Panorama programme, we reproduce here a small selection of complaints made to the BBC or letters to the press about it*”. I have set out the full website page in Appendix B. The post that I have numbered [6] is Ms Wimbourne-Idrissi’s Facebook post which reads:

“A shocking misrepresentation of the situation in the Labour Party, of which I am a Jewish member, by a reporter, John Ware, with a record of right wing, racist work, using sources dedicated to destroying the reputation of Jeremy Corbyn and those close to him. Not an investigation but a confection of biased assertions from party staff who had implemented a wave of malicious allegations against pro-Corbyn members. They left when a new general secretary was put in place to clear up the mess they had created. Unnamed Jewish party members described a party full of hate. The first to appear was Ella Rose, a former Israeli Embassy staffer well known for prosecuting a campaign against Corbyn-supporting Jews You can see her in Al Jazeera’s documentary The Lobby. Where were the interviews with Jewish members with a different view? Where were the serious academics, experts on antisemitism who have written extensively about the abuse and misuse of antisemitism charges, who could have offered a thoughtful counterpoint to the programme’s one-sided narrative? Why were viewers not told about the thousands of malicious accusations submitted on an industrial scale by organisations set up to defend Israel and harass pro-Palestinians on the left – such as the so-called Campaign against Antisemitism and Labour against Antisemitism? Where were the interviews with Jews and others whose reputations were destroyed after unproven allegations against them were leaked to hostile media by the very same staff represented by Panorama as heroic whistleblowers? Where were the members of Riverside Constituency party, Jews and others, attacked as bullies and anti-Semites, when they have in fact themselves been systematically bullied? Why were viewers not told that Jackie Walker is a Jew and that the charges against her, misrepresented in the programme, had been found unproven? A nasty, dishonest programme which needs to be counterbalanced. Look at witchhuntfilm.org for a serious investigation.

and listen to Naomi W-I’s encounter with Lord Falconer on the Jeremy Vine Show [here](#).”

54. In the original publication, the double-underlined words “witchhuntfilm.org” and “here” appear in red as hyperlinks.

The parties’ meanings

55. The Claimant has pleaded at §§15 and 12 of the Particulars of Claim that the natural and ordinary meaning of the words complained of is:

“The Claimant had a record of carrying out right wing racist work and had on the said Panorama programme performed at a level far below that expected of a professional journalist, had been guilty of a deliberate misrepresentation regarding the situation in the Labour Party concerning antisemitism, and had fallen below the standard of an investigative journalist by merely collecting together biased assertions and malicious allegations rather than investigating in a professional manner, and had made a biased and journalistic(ally) unprofessional programme.”

56. The Claimant contends these meanings were statements of fact (not opinion) and that each of them is defamatory at common law.

57. The Defendants’ meanings, as set out in a letter dated 19 October 2020, are:

“The Claimant is (i) a reporter *whose journalistic record has included right wing, racist work*; and (ii) had worked on the 10 July Panorama Programme ‘Is Labour Anti-Semitic?’, *which shockingly misrepresented the true position in the Labour Party* and which contained a collection of *biased* assertions from former party staff opposed to Jeremy Corbyn and his supporters within the party, *such that it did not merit being described as an investigation.*”

58. The Defendants submit their meanings are factual, save to the extent that they contend the italicised words are statements of opinion. Whereas the Claimant submits the Defendants’ meanings are statements of fact, save to the extent that it is accepted that the meaning “such that it did not merit being described as an investigation” would, if held to be the meaning carried, be an opinion with a stated basis for that opinion.

59. The Defendants submit the basis of the opinion was indicated in general or specific terms, namely for (i) the Claimant’s previous journalistic work, including that referred to on his Wikipedia profile to which Ms Wimborne-Idrissi drew attention in the radio interview linked at the end of the words complained of; for (ii) the content of the Panorama programme, the specific criticisms of the Panorama programme set out in the post, the matters raised in the film which can be viewed at witchhuntfilm.org, and the matters raised in the radio interview linked at the end of the words complained of.

60. The Defendants contend that meaning (i) is defamatory at common law but meaning (ii) is not.

The parties’ submissions

61. It is common ground that the ordinary reasonable reader of the JVL website is someone with an interest in politics and current affairs.
62. The Claimant contends that the Defendants meanings omit that:
- i) on the Panorama programme the Claimant had performed at a level far below that expected of a professional journalist;
 - ii) had been guilty of a deliberate misrepresentation regarding the situation in the Labour Party concerning anti-Semitism;
 - iii) had fallen below the standard of an investigative journalist; and
 - iv) had knowingly made a biased and journalistically unprofessional programme, all of which meanings the Claimant contends were carried by the words complained of.
63. In respect of the Defendants' meaning that the Claimant is a reporter whose journalistic record has included right-wing, racist work, the Claimant asserts this was a statement of fact. There is nothing in the language used by Ms Wimborne-Idrissi to suggest that she was expressing an opinion. Rather, she made a firm, emphatic and explicit statement that the Claimant has a record of right-wing, racist work, without any ifs or buts.
64. In any event, the Claimant contends if it was a statement of opinion, no basis for it was stated in the post. Insofar as the Defendants submit the basis for the opinion was the Wikipedia entry, the Claimant points out that the link in the post was to the Jeremy Vine programme, not to the Wikipedia page. The fact that Ms Wimborne-Idrissi referred during the Jeremy Vine programme to Wikipedia is too remote to fulfil the function of stating the basis for the opinion (if that is what it is) that she expressed in the post.
65. The Defendants submit that the language of "right wing" or "racist" is inherently the language of a value judgment as to views expressed, rather than a verifiable fact, and so the language of opinion, particularly when applied to the "record" of work by a reporter. The majority of the text of the post makes a series of specific criticisms of the content of the Panorama programme which explain the basis of the critical comments in the words complained of.

Decision

66. First, the clear impression conveyed is that the record of right wing, racist work is a reference to the Claimant's work as a journalist. Secondly, the allegations that through the programme he deliberately misrepresented the true position and that the investigation he undertook for the programme was unprofessional are conveyed to the reasonable reader. The description of the Claimant carrying out racist, right wing work colours the impression that the ordinary reader of the website, who has an interest in politics and current affairs, would have gained from the assertion that the Claimant presented only the biased views of those opposed to Jeremy Corbyn, making clear the misrepresentation was deliberate as well as unprofessional.

67. In my judgment, applying the principles to which I have referred, and having regard to the meaning conveyed as a matter of first impression when I first read the webpage, the natural and ordinary meaning of the words complained of is:

The Claimant is a reporter (i) whose journalistic record includes right wing, racist work and (ii) who, through his work on the 10 July Panorama Programme “Is Labour Anti-Semitic?”, *deliberately misrepresented the true position concerning anti-Semitism in the Labour party and acted unprofessionally* by merely collecting together *biased* assertions and malicious allegations from opponents of Jeremy Corbyn, *rather than investigating in the manner and to the standard expected of a professional journalist*.

I have italicised the parts of this meaning which I have determined are statements of opinion.

68. The statement that the Claimant is a reporter is, of course, factual (and not defamatory). As regards (i), I agree with the Defendants that the words “right wing” convey a statement of opinion by the First Defendant about the political nature of the Claimant’s journalistic record. The descriptive term “right wing” would be understood by a reasonable reader of the webpage to be a matter of opinion, depending on the political standpoint of the person using it.
69. However, I do not accept that the same applies to the allegation that he has a record of carrying out *racist* work. This appears as a bare comment with no details given of any of the Claimant’s journalism that was said to have been racist. In *Kemsley v Foot*, the headline “Lower than Kemsley” - suggesting that the plaintiff was a byword for poor journalism - identified the subject matter of the comment generically as a class of material that was in the public domain, namely the plaintiff’s journalism. Whereas, here, the subject matter of the comment is not the entire class of the Claimant’s journalistic work. The Defendants contend, and I agree, that the meaning is that the Claimant’s journalistic record *includes* racist work, but no such work has been identified.
70. The Defendants rely on the hyperlink to the radio programme, in order to seek to rely on the Wikipedia page concerning the Claimant as identifying the subject matter of the comment. I have given my reasons in relation to the First Publication for rejecting reliance on the Wikipedia page as identifying the basis of that statement for listeners. The Wikipedia page is a further step removed for readers of the Second Publication, as the webpage does not contain a hyperlink to the Wikipedia page, only to the radio programme in which reference was made to the Wikipedia page. I agree with the Claimant that a hyperlink to the radio programme is too remote to provide a basis for the statement that the Claimant’s journalistic record includes racist work.
71. As regards (ii), the reference to the Claimant having worked on the Panorama programme is, of course, factual (and not defamatory). The statement that the Claimant merely collected together in the programme assertions and allegations from those opposed to Jeremy Corbyn is (as the Defendants acknowledge) also factual. In addition, I consider that the contention that “malicious” allegations were broadcast would strike

the reasonable reader as a factual statement, made without identifying the facts on which it was based.

72. In my judgment, the rest of part (ii) of the meaning is a statement of opinion. This part of the meaning is focused on the content of the programme that had been broadcast. The First Defendant elaborated on her views in the part of the post that is not the subject of complaint, giving numerous examples of alleged omissions and inaccuracies on which her view that the programme misrepresented the true position, and that it was a piece of unprofessional journalism, was based. The description of the assertions aired as “biased” would also strike the reasonable reader, in the context of the publication as a whole, as an expression of the First Defendant’s opinion based on her view of the politics of those making such assertions, and her view that the programme was one-sided as a result of the omissions to which she referred.
73. There are aspects of the meaning I have found that are not defamatory, as I have identified. But taken as a whole, this meaning is defamatory at common law. Both parts (i) and (ii) would tend to have a substantially adverse effect on the way that right-thinking members of society generally would treat the Claimant, alleging as they do that he has a record of racist journalism, and that in his work on the Panorama programme he deliberately misrepresented the true position and acted unprofessionally. I agree with the Defendants that the term “right wing” denotes a political stance within the mainstream of politics which, in itself, is not defamatory at common law, but it is used by the First Defendant as part of the description of the racist work and the statement as a whole is, as I have said, defamatory at common law.
74. Having found that parts of the meaning are statements of opinion, the question raised by the fourth preliminary issue falls to be determined. In my judgment, the statement indicated, in general terms, the basis of the opinion that (i) the assertions broadcast on the Panorama programme were biased; (ii) and that the Claimant acted unprofessionally, did not investigate in the manner and to the standard expected of a professional journalist, and deliberately misrepresented the true position concerning anti-Semitism in the Labour party.
75. In relation to (i), the basis for the opinion that the assertions were biased appears in the statements that the former staff whose views were aired were opposed to Jeremy Corbyn and those close to him, and they had left the party when a new general secretary was put in place. It also appears in the statement that the first person to appear on the programme was “well known for prosecuting a campaign against Corbyn-supporting Jews” and (implicitly) that she could be seen doing so in Al Jazeera’s documentary The Lobby. In addition, a general basis for the opinion appears in the references to the omission of other, different viewpoints, leading (in the First Defendant’s view) to a biased presentation.
76. In relation to (ii), the general basis for the First Defendant’s opinion was given in her statements that the programme included biased statements of those opposed to Jeremy Corbyn (the basis for which opinion is referred to in the previous paragraph), but omitted (a) interviews with Jewish members with a different view, (b) the views of serious academics with expertise on the subject of anti-Semitism who have written about the abuse/misuse of anti-Semitism charges, (c) interviews with those whose reputations were destroyed by the leaking to the media of unproven allegations of anti-Semitism, (d) to explain that one of the individuals accused of anti-Semitism is Jewish

and the charges against her had been found unproven, and (e) to consider whether the members of the Riverside Constituency party were wrongly attacked as bullies and anti-Semites, when the First Defendant contended they had themselves been systematically bullied.

E. Conclusions

77. My conclusions on the four preliminary issues are as follows:

i) The natural and ordinary meaning of the words complained of in the publication pleaded at paragraph 6 of the Particulars of Claim is:

“The Claimant has been disciplined by the BBC in connection with allegations he has engaged in Islamophobia and extreme, far right politics, as a consequence of which the BBC has had to apologise for his conduct; and

There are reasonable grounds to suspect that the Claimant has an extensive record of Islamophobia and of involvement in extreme, far right politics.”

ii) The natural and ordinary meaning of the words complained of in the publication pleaded at paragraph 14 of the Particulars of Claim is:

“The Claimant is a reporter (i) whose journalistic record includes right wing, racist work and (ii) who, through his work on the 10 July Panorama Programme “Is Labour Anti-Semitic?”, *deliberately misrepresented the true position concerning anti-Semitism in the Labour party and acted unprofessionally* by merely collecting together *biased* assertions and malicious allegations from opponents of Jeremy Corbyn, *rather than investigating in the manner and to the standard expected of a professional journalist.*”

iii) Those meanings are defamatory at common law.

iv) The meaning in paragraph (i) above is a statement of fact; and that in paragraph (ii) above is a statement of fact save to the extent that the italicised words are a statement of opinion.

v) In respect of those parts of the meaning in paragraph (ii) above which are statements of opinion, the statement indicated, in general terms, the basis of the opinion.

Appendix A

First Publication: Jeremy Vine Radio 2 Interview with Naomi Wimborne-Idrissi and Lord Falconer on 11 July 2019

JV: Jeremy Vine	JP: John Pienaar
JG: Joshua Garfield	MC: Michael Creighton
SM: Sam Matthews	JW: John Ware
DH: Dan Hogan	LF: Lord Falconer
LWG: Louise Withers Green	NWI: Naomi Wimborne-Idrissi

[1] JV: Now accusations of Antisemitism have dogged the Labour Party ever since Jeremy Corbyn became leader back in 2015. It is fair to say it has torn the party in two. Last night the BBC's Panorama spoke to eight former Labour officials about the crisis and what they said was damning on anyone's count. They argue the party is failing to take Antisemitism seriously and they even allege that senior figures interfered in disciplinary hearings.

[2] There's quite a bit to discuss here so lets just start by hearing what one Jewish Labour Party member Joshua Garfield had to say about his treatment by other party members.

[3] JG: I noticed it descend into a really, really very unpleasant and at times hostile environment. And they might not call me, you know a dirty Jew, but they would call me a dirty Zionist, with pride.

[4] JV: So, that is one Jewish member's account of what goes on inside the party and then there's the question on whether there has been interference by the leadership in the party's disciplinary hearings on cases of alleged antisemitism, a process that of course is meant to be independent. In particular, there have been allegations that the General Secretary Jennie Formby has been getting personally involved in complaints procedures. Here's what Sam Matthews, who was head of disputes of Labour until 2018 had to say.

[5] SM: There were elements, among certainly in the Leader's Office, that regarded us and our team as Blairites who were working to undermine the Leader of the Labour Party. I sat at my desk thinking I can't do this anymore. I am being asked to do things I'm fundamentally not comfortable with and the thought crosses my mind as to whether I send her my resignation and then do something that nobody should ever consider and that I active- I actively considered committing suicide, walking off her roof as some way to not feel trapped anymore.

[6] JV: Dan Hogan, who was a Labour Investigations Officer until 2018, was also critical of Jennie Formby in particular.

[7] DH: It's a joke. On a number of cases which I worked on, the people that she brought in when she became General Secretary overruled us and downgraded what should have been a suspension to just an investigation or worse, to just a reminder of conduct, effectively a slap on the wrist.

[8] JV: Now it is important to note that four of those interviewed on Panorama were speaking out despite having signed Non-Disclosure Agreements, or NDAs with the party, and those so called NDAs effectively gag those who sign them. But last year Labour said they wanted them banned. Let's listen to Louise Withers-Green who was a Disputes Office with Labour until 2018 and she is talking here about the NDA she signed.

[9] LWG: It was really tight. When I first read it I wondered how on earth I would be able to apply to jobs because it was so prescriptive in not speaking about anything that I had heard of happening in the Labour Party. But I won't not be able to live with myself unless I speak up about the horrendous things I know have been happening.

[10] JV: So all material from Panorama. What do you make of this? What does it tell us about the state of the Labour Party and Antisemitism? 0800 288 291. Email Vine at BBC.co.uk. We have contacted the Labour Party today, they did not want to put anyone up to speak to us. In a statement they criticised Panorama for deliberate and malicious misrepresentations designed to mislead the public and they said we completely reject any claim that the Labour Party is antisemitic. So in a moment we'll speak to a Labour peer who's very critical of the leadership and also a Jewish woman who says the allegations are being used to attack Jeremy Corbyn by people who basically don't like his politics.

[11] Just lets get the latest on the Panorama though with John Pienaar, BBC Deputy Political Editor. What's your sense then of what this told us about Labour, John?

[12] JP: As you say Jeremy, the the the debate about antisemitism in the Labour Party, and the adequacy or failure depending on your point of view of the, of the Leadership to deal with all of this has been tearing up the Labour Party for a good long while. The Panorama documentary and the extraordinary testimony in that programme, we heard some of that just a second ago there, that has raised the pitch a bit to a still higher level and it has lead to the opposing sides digging in in a more entrenched way. So battle has been, well it never really ceased, but it has been joined now in a much more vocal, vociferous, rigorous way, and you have on one side, Tom Watson the deputy Leader of the Labour Party on the BBC this morning saying it was a serious problem, that Labour does need to deal with it more vigorously and there need to be changes in the Labour rule book, say for example an independent investigations body to look at complaints, and automatic expulsion for those found to be guilty of antisemitism. On the other, John McDonnell, very close ally of Jeremy Corbyn, the shadow chancellor, attacking the BBC and you've given a sense of Labour's line on that. Accusing it of being biased and saying look, it's the BBC's job to deal with that complaint. And so battle goes on.

[13] JV: And if we were trying to see the whole narrative here, was there a particular incident that started this because people just look at it and think I don't know where it all came from?

[14] JP: I suppose it is an accumulation of incidents and its suggested that the, the number of cases of this kind involving anti-Semitism has gone up significantly since Jeremy Corbyn became leader of the Labour Party, and many on one side of this argument will attribute that to the kind of people that came into the party, and the wave of new members, and it was an enormous wave, that took Labour membership cards after Jeremy Corbyn came in. These were in many cases supporters of Far Left groups, some of them have historically, and we're talking over many many years, taken a hugely critical view certainly of Israel, of Zionism, and it is suggested that the idea, and the concept of antisemitism has become conflated with the position on Israel and on Zionism, so one in many cases it said simply leads to another is pretty much the same as another and that Jeremy Corbyn and those around him have simply not taken that argument seriously enough. That in dealing with these complaints they have been keen or sort or in effect this is what they've done which is to deal serious complaints in a way which has not led to serious punishments.

[15] JV: And I'll play just one more clip before we talk to our guest John. This comes, involves the Seamus Milne who is Jeremy Corbyn's number two, and he's talking here, as I think we

are hearing from somebody called Michael Creighton, and, yes, he is Labour's former head of the disputes team who recalls a conversation with Mr Milne.

[16] MC: He said I want to talk to you about antisemitism and how we deal with it, and I gave him my advice which I, as I recall was two things. One was we should deal with some of the top level antisemitic cases much more swiftly and much more robustly. Second thing I suggested was that it would be the right time for Jeremy Corbyn as leader to make a significant speech on the issue of the Middle East, particularly saying that Israel had a right to exist.

[17] JW: and when you made this suggestion to Mr Milne, what was his response?

[18] MC: He laughed at me.

[19] JW: He laughed at you?

[20] MC: He actually laughed at me. Now, um, I mean I clearly misread it. I thought he actually wanted to know how we tackle antisemitism within the Labour Party, I think what he actually meant to say was how do we deal with the bad publicity we're getting.

[21] JV: And that was almost the most memorable moment of the whole documentary John, it's very impressionistic. But the idea that it was laughed at seems to sum up the problem?

[22] JP: Yeah, and that account of that conversation is simply dismissed by those around Jeremy Corbyn, by the party, they say that conversation did not take place in the way described, described there. But those who, looking at this from again, and it is about looking at it from one side and then from another when it comes to this, this, this split through the Labour Party. They would say look, here it is, yet more evidence that Jeremy Corbyn wasn't taking it seriously, that there was an in built hostility to Israel, the idea of making a speech in support of Israel's right to exist, that wouldn't have gone down terribly well. And that's going to be the nature of the argument, there are going to be recriminations and counter recriminations, just look at Twitter where you see members of Parliament, Labour members of Parliament piling in critically against the top of the party, and you see members piling in behind Jeremy Corbyn. Each one of them knows what they're doing, they're adding to the volume of the argument and it's going to roll on. There'll be a committee meeting of Labour's ruling executive next week where Tom Watson will push his ideas for change and it will roll on beyond that through the party conference in the, in the Autumn. Imagine, and I am sure you hadn't for a second imagine this is going to go away quickly, it isn't.

[23] JV: Thank you very much John Pienaar, BBC political correspondent. We speak now to Lord Falconer, Labour peer who is critical of Jeremy Corbyn, Naomi Wimborne-Idrissi joins us from Jewish Voice for Labour who defends him. Lord Falconer, just give us your response to the documentary.

[24] LF: It's horrifying. What it had were two bits that I thought were horrifying. First of all, four or five people saying what it was like to be a member of the Labour Party and part of the Jewish community and these people, and you played the clip, described that they were being bullied and treated badly in relation to it. And then the other bit was people involved in the disciplinary process saying basically it was totally dysfunctional and it was interfered with. Some of it there is disputes, and you've referred to the bit Seamus Milne denies, the conversation with Michael Creighton. But the picture that is painted by the Panorama programme is a bullying of people who are Jewish and a disciplinary function unable to deal

with it. That's an incredibly bad picture. Any sensible organisation confronted with that would say we've got to deal with any antisemitism within the party. Instead what's happened is the party has broken into factional fighting, these allegations of antisemitism are got up by the BBC or they are part of an attack on Jeremy Corbyn. We have to be convincing in relation to it. I tested by reference to two particular cases that are going on at the moment, Pete Willsman, who's member of the ruling body of the Labour Party, he said and there's no dispute about this, all of the allegations of antisemitism are got up by the, or whipped up as is his language, by the Israeli embassy, and he's been suspended but no disciplinary process has reached an end yet. That must make people feel, if they are worried about antisemitism, that nothing is being done about it. And Chris Williamson who has sided with people who have been thrown out of the Labour Party for antisemitism, and initially he was going to be let off with a reprimand now he is in some sort of procedural limbo which tends to confirm that we're not dealing adequately with antisemitism.

[25] JV: Naomi Wimborne-Idrissi, can you respond to that?

[26] NWI: I certainly can. So Charlie Falconer's worried about interference in a disciplinary process which is meant to be independent and well founded on evidence. And he on a public platform is demanding that two people who have been accused of antisemitism, wrongly in both cases in my view and the view of many views in the party is publicly saying they are to be expelled. You are interfering Charlie Falconer. This is the kind of problem that we face, that there is endless interference by a massive sort of anti-Corbyn establishment out there using the media to rubbish people, to demonise people, to create an impression of a massive wave of jack-booted Nazis trampling around the country and the Labour Party. Laughable, absolutely laughable. And you dare to accuse members of the leadership team who are trying to hold the ring against the wave of malicious allegations, yes there is antisemitism in the Labour Party, but no there is not a massive wave of it, and yes there are groups of people, Campaign Against Antisemitism, Labour Against Antisemitism, who spend their lives trawling through social media accounts, piling hundreds and hundreds and hundreds of complaints onto the shoulders of the staff –

[27] JV: So that is –

[28] NWI: at the Labour Party headquarters, that is the problem –

[29] JV: Right and what you've said is the, since what Charlie Falconer was suggesting that the, that Mr Corbyn's defenders say which is that actually this is mag-, whatever the problem is has been magnified a thousand times by the media. Is that right?

[30] NWI: a thousand times.

[31] JV: But lets take those two–

[32] NWI: I know I'm a Jew in the Labour Party –

[33] JV: Yeah, but lets take the two cases that he mentioned. In fact one in particular, Chris Williamson who sided with people who were accused of antisemitism who doesn't seem to be –

[34] NWI: accused Jeremy.

[35] JV: Go on.

[36]: NWI: Tell me please, make clear. You're quite right, accused. Not guilty. The assumption that comes up over and over again, is that once accused you deserve any de-legitimation, any insult, any abuse throughout the media, and that's fine because you've been accused. Who are your abusers -

[37] JV: Charles Falconer, what, why don't you tell us exactly what Chris Williamson did wrong.

[38] LF: There are three examples of it. First of all, he he supported a online position in support of a particular musician who -

[39] NWI: --

[40] JV: Just a moment Naomi, we'll come back to you.

[41] LF: who had been banned from an Islington venue. This musician had denied the Holocaust. This musician had said that the Jews had brought upon themselves, the Germans had responded because the Jews had declared war on Germany and Chris Williamson supported that. Secondly, he arranged a meeting in the Houses of Parliament in support of Jackie Walker who had been expelled from the Labour Party for a number of remarks that had brought the party into dispute disrepute, including saying that the Jews were largely responsible for the slave trade. Now those seem to me to be two very clear examples of Chris Williamson siding with people who are guilty of antisemitism.

[42] JV: Well there we are. So not just accused but actually siding with them. Go on Naomi.

[43] NWI: Three people. Chris Williamson did not side with Gilad Atzmon knowing what he was. He was sent a petition which said this famous jazz musician, because he is unfortunately, had been banned from this town hall because of his anti-Israel stance. Chris tweeted it, I think he tweeted it round, and then when people said look Gilad Atzmon is bad news, you don't want anything to do with him, he deleted it, end of story. He has not supported a known anti-Semite, that's a lie.

[44] JV: What about Jackie Walker because there you knew what she had said?

[45] NWI: I know exactly what she said. And Jackie Walker was not expelled for antisemitism. Jackie Walker was not expelled for anything to do with her remarks about the slave trade, which were simply an allusion to the fact that in the Caribbean where her mother comes from, there were Jewish people, at the time that the slave trade was ongoing, who took part in it.

[46] JV: Ok -

[47] NWI: Like so many other people did.

[48] JV: Maybe -

[49] NWI: It is not an antisemitic remark, she was not expelled for it. She was not expelled for antisemitism. These are lies that are told about these people.

[50] JV: Maybe this conversation, Lord Falconer, illustrates why Mr Corbyn and his people around him are unable to get on with these investigations because you never quite get to the heart of what the problem is.

[51] LF: Well the heart of the problem, and that's why you've got to form a view about what the overall narrative is, are people in the party being treated badly because they're Jewish or are antisemitic remarks being made? I think the answer is yes there are. Is the party proving capable of dealing with it? No they are not. Look at what the people engaged in the, in the, in the disciplinary process were saying, surely what the party has now got to do is set up a process in which they look into what's happening and do something about it. To attack the BBC seems so misguided.

[52] JV: well Naomi, you've got to sort this out haven't you?

[53] NWI: Well absolutely. Look there is a process. Chris Williamson was heard by a properly constituted panel of the National Executive which took advice from independent legal counsel. It reached a decision, it made its findings known, that he should be, that his suspension should be listed. That should have been an end to it because Chris Williamson has done nothing antisemitic. Noam Chomsky says that Chris Williamson has done nothing antisemitic, hundreds of Jewish people have looked at what Chris has said, and said he's not apologising for he's not saying –

[54] JV: But I was making, I wasn't necessarily trying to refight the Chris Williamson thing. I was making the broader point that this is now stuck to the Labour Party and you have to deal with it.

[55] NWI: Yeah

[56] JV: And you've to deal, take action. And you probably might even agree with Lord Falconer here, you've got to properly do some kind of major inquiry haven't you?

[57] NWI: not some independent. By independent it means bring in the pro-Israel lobby to make sure that nobody says anything about Israel? What does he mean by independent?

[58] LF: I mean, I mean Naomi what I've got in mind is somebody that both sides of the argument would have confidence in –

[59] NWI: well I don't know who that would be, do you? Not you because you've already stated your position –

[60] JV: Well, lets, I'm interjecting myself here. I don't think he's going to suggest-

[61] NWI: you've ruled yourself out –

17:11 – 19:04 of BBC Radio 2 Interview

[62] LF: Naomi, do you not think that, for example, the NEC confronted with allegations by Panorama, the BBC, which are a respectable organisation that there is all of this problem in the Labour Party, needs to do something about it? If a business, or a charity was confronted with allegations like this, its ruling body, whether it be the Board of Directors or the Trustees, would have to investigate. What they couldn't do is just say "We dismiss the BBC as people who are motivated by getting at Jeremy Corbyn." Surely the NEC has got to take responsibility for this?

[63] JV: Ok, last word to you Naomi.

[64] NWI: The NEC accepted the Chakrabarti report which was rubbished in that Panorama...

[65] JV: Into antisemitism, right? Yeah.

[66] NWI: Completely, absolutely, almost libellous, I would have thought what was said about that. The NEC had ideas in place as to how to implement that. They weren't implemented. But why not? Because at the time the people in control of the then called Governance Unit were the ones who were on Panorama last night spilling the beans. They are a totally partial group of people. There was no proper opposition to them. The journalist who did that so called investigation has a terrible record of Islamophobia, far right politics, he's been disciplined at - BBC has had to apologise.

[67] JV: Oh, wait a minute, you're talking about one of my colleagues here, John Ware?

[68] NWI: I am, I am.

[69] JV: I don't think...

[70] NWI: Look him up on Wikipedia

[71] JV: well, hang on a minute, cos now I have to get him on...

[72] NWI: Look him up!

[73] JV: But I mean, the idea you just take down the journalist now, that's kinda desperate isn't it?

[74] NWI: No it isn't

[75] JV: He's one of the most distinguished journalists in the BBC!

[76] NWI: We had an hour of Panorama time..

[77] JV: ...all right...

[78] NWI: ...lambasting Jeremy Corbyn, with no opposition...

[79] JV: Thank you very much

[80] NWI: ..no Jewish people who had a different view.

[81] JV: Thank you very much. Naomi Wimborne-Idrissi from Jewish Voice for Labour defending Mr Corbyn and Lord Falconer, very worried, as you hear, Labour peer who is critical as to what's happening.

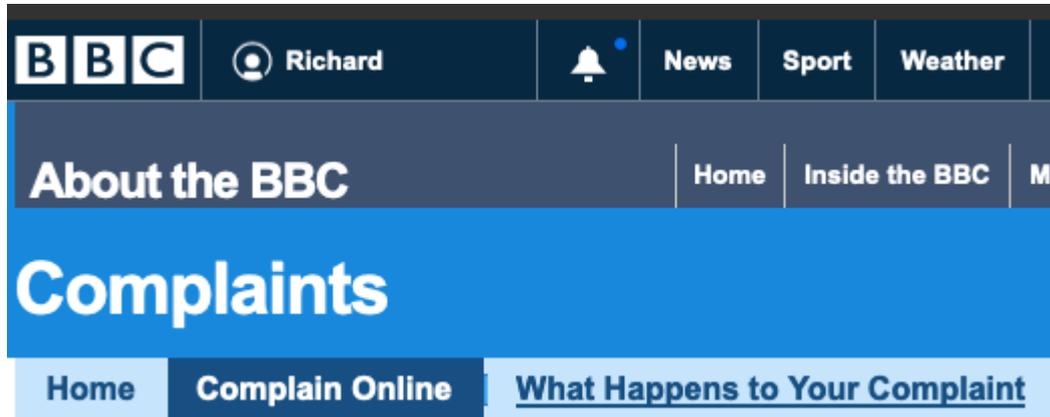
Appendix B

Second Publication: Jewish Voice for Labour Website

Letters and complaints to the BBC about the Panorama programme

Following on the Panorama programme, we reproduce here a small selection of complaints made to the BBC or letters to the press about it.

Mon 15 Jul 2019



Complaints to the BBC should be made to their [complaints unit](#)

[1] **Jenny Manson to the Today programme**

Subject: A complaint about coverage of the Panorama programme today

11 July 2019 at 09:26:13 BST

Dear Today

I rang twice to ask to be interviewed on Today Programme today about the Panorama programme. I also sent Today our statement – see [below](#).

Instead in his interview Sam Matthews appeared to say that accusing Jewish JVL members of antisemitism is acceptable and appropriate (seemingly because broadly we support the leadership). This is a form of antisemitism (we are the wrong sort of Jews it seems).

And to represent the other view you had Rachel Shabi who approved of a Panorama programme which had no evidence, no other voices and clearly was building on the resentment of disgruntled ex employees. She is not a spokesperson for JVL and we have a voice that should have been heard.

The other interviewed were Lord Levy and Tom Watson who repeated yet again their un-evidenced accusation about the level of antisemitism in the Party and the responsibility of the Leader's office when all the actual evidence suggests this is not a LABOUR PARTY problem. There is antisemitism in the Party but it is less than in the conservative party and less than in the Corbyn days.

The bias of the Panorama programme was therefore echoed and amplified on Today.

Please have one of us on tomorrow.

Best
Jenny Manson Co chair Jewish Voice for Labour

wishes,

[2] **Follow-up email:**

To add to this JVL has been asked onto several BBC programmes today including the Jeremy Vine show, Naomi, and I will be on Newsnight.

[3] 15th July

Dear Today

This was more than an ‘interest in speaking to’ you about Panorama; it was a complaint that we were not given a hearing last Thursday despite one interviewee suggesting that Jews, if they are members of Jewish Voice for Labour (JVL), can properly be accused of antisemitism.

Since Panorama was aired, much of its content has proved to be biased or inaccurate. Is Today aware for example that all or most of the Jewish members of the Labour Party that were interviewed but whose names were withheld were officers of the Jewish Labour Movement?

Please pass on to those senior editors that apart from, in my memory two interviews with JVL, our voice has not been heard despite our representing a large number of Jewish members of the Labour Party. Here is [a link to our website](#). Incidentally the interview I had with John Humphreys was very fair and John told me that he had no idea JVL existed and this was after many, many calls and emails to Today.

Best wishes,
Jenny Manson co chair of JVL

[4] **From:** Today Complaints <Today.Complaints@bbc.co.uk>
Sent: 15 July 2019 08:30
To: ‘Jenny Manson’
Subject: RE: A complaint about coverage of the Panorama programme today

Thank you for writing to Today.

We welcomed feedback and have taken note of your interest in speaking to us about the subject. We have passed your email onto senior editors on the programme, so they have your contact details should they wish to be in touch.

Kind regards

Today

[5] Panorama painted an unrecognisable picture of Labour

Source: Julia Bard, letter in the Islington Tribune, 12 July 2019

• THE BBC's *Panorama* on Wednesday, July 10, painted an unrecognisable picture of the Labour Party that I belong to.

I am Jewish. I am also an anti-racist who has challenged anti-Semitism wherever I have encountered it, left or right, for as long as I can remember.

The repeated assertion that Jews feel unwelcome or unsafe in the party is simply untrue. But this was at one with the programme's welter of speculation, disembodied, uncontextualised and unattributed quotes and obvious distortions.

Instead of concrete evidence we were offered the same old allegations and claims by disgruntled employees and hatchet people that have been made for the last four years.

What interested me most was that they repeatedly returned to what they clearly see as the real problem. The reason this all started up from the moment Jeremy Corbyn was elected as party leader, they say, is because of the "influx of new members".

It seems from the *Panorama* programme that what these ex-employees, who presided over the mass summary suspensions of Corbyn supporters during his campaigns for the leadership, are really frightened of is democracy and the potential he and all those enthusiastic new members have brought for real change – for the many, not the few.

JULIA BARD
Member of Islington North CLP

[6] Naomi Wimborne-Idrissi on [Facebook](#)

A shocking misrepresentation of the situation in the Labour Party, of which I am a Jewish member, by a reporter, John Ware, with a record of right wing, racist work, using sources dedicated to destroying the reputation of Jeremy Corbyn and those close to him. Not an investigation but a confection of biased assertions from party staff who had implemented a wave of malicious allegations against pro-Corbyn members. They left when a new general secretary was put in place to clear up the mess they had created. Unnamed Jewish party members described a party full of hate. The first to appear was Ella Rose, a former Israeli Embassy staffer well known for prosecuting a campaign against Corbyn-supporting Jews. You can see her in Al Jazeera's documentary *The Lobby*. Where were the interviews with Jewish members with a different view? Where were the serious academics, experts on antisemitism who have written extensively about the abuse and misuse of antisemitism charges, who could have offered a thoughtful counterpoint to the programme's one-sided narrative? Why were viewers not told about the thousands of malicious accusations submitted on an industrial scale by organisations set up to defend Israel and harass pro-Palestinians on the left – such as the so-called Campaign against Antisemitism and Labour against Antisemitism? Where were the interviews with Jews and others whose reputations were destroyed after unproven allegations

against them were leaked to hostile media by the very same staff presented by Panorama as heroic whistleblowers? Where were the members of Riverside Constituency party, Jews and others, attacked as bullies and antisemites, when they have in fact themselves been systematically bullied? Why were viewers not told that Jackie Walker is a Jew and that the charges against her, misrepresented in the programme, had been found unproven? A nasty, dishonest programme which needs to be counterbalanced. Look at witchhuntfilm.org for a serious investigation.

and listen to Naomi W-I's encounter with Lord Falconer on the Jeremy Vine show [here](#).

[7] Leah Levane

This programme did not set out to answer whether or not Labour was antisemitic but to present selective material, much of which was distorted, carefully edited (eg email from Seamus Milne). Disgruntled ex staffers were allowed, to vent. I feel very sad if any experienced poor mental health but what about staffers who were and still are happy. And, yet again Jackie Walker was introduced and the only specific allegation was her supposed claim that Jews financed the slave trade. She quickly accepted that she should have said Jews were amongst the financiers, etc. But she was having what she'd thought was a private conversation on her own Facebook page, not writing an academic essay, etc. She was reinstated UNDER Iain McNicol after that. The staffer, who I've confirmed never interviewed her, then said she repeated tropes and showed no remorse... with no evidence. In fact the programme was largely evidence free but the Labour Party rebuttals were presented without the weightiness of the allegations. Eg I understand that Diane Abbot was interviewed but did not appear. Barely a dissenting voice was allowed. And I'm amazed that the BBC's flagship documentary programme would accept something made by a "journalist" who has previously been heavily criticised, forcing the BBC to apologise. An apology is the minimum needed. Now can we have a programme on why these allegations that apply to less than half a per cent of the membership have been consistently presented as though the Labour Party is rife with antisemitism, rather than placing this in context and allowing the Party to deal with the cases that, regrettably, do exist. And the dismissal of the Chakrabarti report is possibly libellous.

[8] Jonathan Rosenhead

Complaint Summary: Utterly one sided and dishonest presentation

Full Complaint: The programme *Is Labour Antisemitic?* was a one-sided polemic. Muck-raking pretending to be journalism. I am Jewish and in the Labour Party, and have been since 1962. Where was my voice and those of the hundreds almost certainly thousands of Jewish members completely comfortable in the Party, I have never encountered a single instance of antisemitism.

Why was there no exploration of the motivations of the ex-members now disloyally 'spilling the beans' about their previous work. Why are they presented as honourable? Why was their implacable opposition to Jeremy Corbyn and the leftward shift in the party not discussed. It is well known within the Party that Iain McNicol as General Secretary did all he could to frustrate and undermine Corbyn. But the programme did not test him on this but served him up softball questions. The BBC had a duty to clarify such factors for its audience. And you failed.

There were factual errors galore. Neither Jackie Walker not Livingstone were expelled for antisemitism. Neither were charged with antisemitism, Livingstone resigned. The one part of Walker's indictment that was mentioned (the involvement of Jews in the slave trade) was one on which she was explicitly exonerated. Livingstone's treatment of the collaboration of the Zionist movement and the Nazis over several years, dumped on as historical nonsense, is a well-attested historical fact – happy to provide you with copious references. Etc etc.

[9] Marion Roberts

Complaint to BBC about Panorama

Many balancing facts were not explored in this piece of so-called investigative journalism.

1. When appointed as General Secretary in April 2018, Jennie Formby told MPs that the complaints procedures she found in place 'were not fit for purpose'. Many Party members, suspended for spurious reasons completely unrelated to antisemitism, would agree with her. Since then she has reformed the process to mirror that of the major union, Unite, introduced independent legal counsel to judge each serious complaint and doubled the number of staff. The Party voted to increase the size of the NCC at its national Conference, so as to speed up the process of dealing with complaints, this was acted on promptly in 2018-2019.
2. Prior to Formby's appointment complaints of antisemitism were not considered separately.
3. Jewish NEC member Jon Lansman is on record as describing how the disaffected officials who gave testimony on the programme sabotaged the disciplinary process. On resigning they stole and then deleted whole tranches of correspondence so the Party could not effectively deal with it. There was no discussion of this accusation.
4. The testimony given by rank and file members was not explored in any depth. What exactly happened, when did they complain, who to and why were the officials not asked why those particular complaints not dealt with? There was a distinct lack of actual evidence but an abundance of emotion.
5. No clear definition of antisemitism was offered – despite this being a subject of major debate within the Party last year.
6. No balancing voices were heard.
 - a) Literally hundreds of Jewish Party members have sent in testimony to the EHRC (which they are not interested in) providing moving accounts of their feelings of comfort and welcome in the Labour Party.
 - b) A distinguished, objective, pro-Zionist Jewish scholar, Professor Geoffrey Alderman, has refuted many of the claims made in this programme. See his articles on the Spectator blog. He is not a Party member.
 - c) The Jewish Voice for Labour has many excellent articles on its web-site by a variety of Jewish and Israeli scholars and commentators. Why was one of these not interviewed?

[10] Jackie Walker

I was a subject of a 'Panorama – Is the Labour Party Antisemitic' interviewee.

The journalist never approached me for comment before broadcasting an interview which was personally damaging, politically offensive and abusive.

In the section which shows Ms Green Withers, who it was strongly suggested had met me (I have never met her) the journalist begins by making an extraordinary statement; that I had ‘a blind spot where antisemitism is concerned’. This was made without evidence, again without allowing comment from me. This is offensive enough but given my experience of actual physical racist abuse, present day threats (including from Ella Rose, the first person interviewed for the programme; note <https://electronicintifada.net/blogs/asa-winstanley/jewish-labour-movement-director-investigated-violent-threat>), it’s extraordinary. Given I am Jewish, have a Jewish partner, am a member of 2 Jewish organisations and have a lifelong record as an anti-racist trainer, activist and writer, that the BBC, as a public broadcaster, allowed a wide audience to hear such unsubstantiated offensive, smearing and abusive claims is more than reprehensible.

Neither was mention made that (after investigation) I was exonerated for comments on the sugar and slave trade. (I believe) Sam Matthews authored an email, now in my possession, following a data access request to the Labour Party, describing the complaint against me as weak and one that should not have led to my suspension.

Withers Green’s comments that I claim Jews are unwelcoming to black people are again unfounded and most offensive. Again, where is the evidence?

This abuse was repeated on BBC news, followed by the press, other media and News 24 and I’m told syndicated across the world repeatedly.

I ask the BBC to find a way to redress the damage that has been done to my reputation and well being

[11] Marge Berer, letter sent to the Observer
13 July 2019

To the Editor,

It seems your pages are overflowing with stories of verbal assault these days – just today, for example, against the Civil Service in the case of Kim Darroch and once again (and again and again) against the Labour Party. (Jewish figures rail against Labour’s handling of antisemitism charges, Observer, 14 July)

Shami Chakrabarti carried out an investigation of anti-semitism in the Labour Party, and her findings were trashed by prominent members of the Jewish community as not being independent. Yet a more ethical, professional and experienced person for such a task would be hard to find. Now the Equality and Human Rights Commission are conducting an independent review which it will be impossible to reject on grounds of lack of independence. But can the people who want to destroy the Labour Party keep shtum and let the EHRC get on with it? No, they have to go in for the kill now, in case the evidence doesn’t go their way once again.

I have been a member of the Labour Party for decades. I am Jewish, but not a “prominent member of the Jewish community”. But I do believe in truth and justice, not verbal assaults. I have never experienced anti-semitism in the Labour Party. Not the kind that is against the law, I mean. Real anti-semitism. I could easily gather together as many Jewish Labour Party members as the Panorama programme did who have never met any serious anti-semitism in

the Party. The illegal kind, that the EHRC are looking for. There are many non-Jewish Labour Party members who, if asked, would also say they have never met any serious anti-semitism in the Party either. We may not get a programme on Panorama, or a front page story in the Guardian. But we could all give evidence of a lack of anti-semitism to the EHRC if they will listen.

I believe the continuing verbal assault on the Labour Party is what is really shameful here. I wish to disassociate myself publicly from these “prominent members of the Jewish community” because they do not speak for me.

Marge Berer