



## Complaint by Mr Ken Loach about *Newsnight*

<b>Type of case</b>	Fairness and Privacy
<b>Outcome</b>	Not upheld
<b>Service</b>	BBC 2
<b>Date &amp; time</b>	5 June 2023, 22:30
<b>Category</b>	Fairness
<b>Summary</b>	We have not upheld a complaint about unjust or unfair treatment in the programme as broadcast.

### Case summary

The programme included a report about the Mayor of North of Tyne Combined Authority (“NTCA”), Mr Jamie Driscoll, who claimed that he had been “banned” from standing for election as the Labour Party candidate for the “North East Mayoralty”<sup>1</sup> after appearing on a panel alongside the complainant, Mr Ken Loach. Mr Loach complained that he was treated unfairly in the programme because the presenter said that Mr Loach had been expelled from the Labour Party for supporting members accused of antisemitism, and that comments from other contributors to the report were not challenged.

Ofcom found that the broadcaster took reasonable care to satisfy itself that material facts were not presented, disregarded or omitted in the programme in a way that resulted in unfairness to Mr Loach. We also considered that the broadcaster was not required, given the particular circumstances of this case, to have given Mr Loach an opportunity to respond prior to the programme.

<sup>1</sup> Ofcom understood that the North East Mayoral Combined Authority is due to come into existence after the mayoral election in May 2024. This new authority will replace the existing North of Tyne Combined Authority and the North East Combined Authority.

## Programme summary

---

On 5 June 2023, BBC 2 broadcast an edition of *Newsnight*, presented by Ms Victoria Derbyshire, which included a segment about the Mayor of the NTCA, Mr Jamie Driscoll, who claimed that he had been “banned” from standing for election for the North East Mayoralty.

During the programme’s introduction sequence, the presenter explained:

*“Also tonight, Labour’s purge of the Left appears to be continuing. We’ll talk to the man banned from standing for the North East Mayoralty, and a Labour commentator who thinks the Party has made the correct decision”.*

Later in the programme, the presenter introduced the segment:

*“The Labour Metro Mayor for North of Tyne is taking advice on whether to take legal action against his Party after he was banned from standing for a new role for the wider region. One senior Labour MP said Jamie Driscoll was barred after appearing on a panel with filmmaker Ken Loach. He [Mr Loach] was expelled from the Party for supporting members accused of antisemitism. Mr Loach said keeping Mr Driscoll off the long list because they shared a platform was, quote ‘the lamest excuse I’ve ever heard’. Nick is here. What’s been happening?”*

The presenter was joined in the studio by political editor, Mr Nicholas Watt.

**Mr Watt:** *“Well, Victoria, there’s a lot of unhappiness on the Left and indeed on the soft Left of the Labour Party about what’s been happening here. So, we’ve seen Andy Burnham, former Cabinet minister under Gordon Brown, who is now Labour’s Mayor of Greater Manchester, joining forces with his very good friend Steve Rotherham, who when he was an MP was a very senior advisor to Jeremy Corbyn, who’s now Mayor, Labour Mayor of the Liverpool City Region. They’ve written jointly to the Chair of Labour’s National Executive Committee, and they’ve complained about excluding a city Mayor, a sitting Mayor, with no right of appeal. Now, Labour says that during the process to find a candidate for this new North East Mayoralty, they say that some candidates did not meet the threshold required to proceed to the long list stage and, as you were saying, Victoria, that is all about Jamie Driscoll’s decision to share a platform with the filmmaker Ken Loach, who, of course, was expelled from the Labour Party in 2021 after he stood by groups which had criticised Keir Starmer’s attempts to tackle antisemitism in the Labour Party. The Labour Party is complaining that Mr Driscoll refused to apologise for sharing that platform. I don’t want to put words into his mouth, but I think you’ll find Mr Driscoll will say that was an arts event.*

**Presenter:** *OK, there is a wider issue here for the Left when it comes to selection for parliamentary candidates as well, isn’t there?*

*Mr Watt: Yes. So, there's a real concern that there are some sitting Labour MPs who are struggling to get selected for new seats because there are boundary changes and aspiring MPs on the Left are struggling and you're hearing complaints that there's a wholesale and systematic attempt to weed out candidates from the Left. You're hearing words like 'Stalinist purge'. You're hearing things like there are 'Kafkaesque' excuses for why certain people can't stand. I'm also hearing that Momentum, that was the campaign group under Jeremy Corbyn, and Jeremy Corbyn supporters never got remotely anywhere near doing anything like this for their wing of the parties whilst Jeremy Corbyn was leader of the Party. On those parliamentary selections, a Labour source is saying: 'Nobody has a right to be a parliamentary candidate. We make no apologies for having high standards, given some of the problems of the past', and you are going to hear a lot from Keir Starmer supporters that Jeremy Corbyn led the Labour Party to its worst defeat since 1935 in 2019. And Keir Starmer wants to show the electorate that era is over".*

The presenter then introduced Mr Driscoll, who joined via video-link, and Mr Paul Richards who was described as a "Labour commentator and former special advisor", who was in the studio.

*Presenter: "Welcome to you both. So, Jamie Driscoll, first of all, I want to read this quote to you, if I may. And it's from Mike Katz, Chair of the Jewish Labour Movement...and this is what he said of you: 'Quite how anyone, let alone the most senior regional leader in the North East can think that it's OK to organise an event with someone with these disgraceful views and track record is beyond us. There is no ignorance here. Mr Loach's views are known, and therefore it is a choice.' Obviously, Mr Loach isn't here. But that's the quote from Mike Katz.*

*Mr Driscoll: Sorry, I wasn't aware there was a question there, Victoria.*

*Presenter: The question is this: why did you make that choice?*

*Mr Driscoll: Well, if you're interested in the facts of it, this was a regional arts event. Ken Loach has filmed 'I, Daniel Blake', 'Sorry We Missed You' and most recently, 'The Old Oak' in the North East. So, I was asked, would I talk to him about those films? That's what we talked about and issues around film. What was his favourite film? How did he get started? So, that's what it was. And if we're saying that it's unacceptable to talk to someone who may have been expelled from the Labour Party, but let's be clear was not expelled for antisemitism, was expelled for complaining about the Labour process. So, if you get expelled, who is safe now? Anyone who's spoken about anything? You know, if I was, if I was Angela Rayner, I would be worried. The sword of Damocles is hanging over everybody in the Labour Party who doesn't fit this centralising tendency, but that's really not what it's*

*about. I think that's what's being briefed. What this is about is not allowing members in the North East to choose their own candidate. This is the London Labour bubble getting rid of someone who doesn't fit, and this is going to do a lot of damage to the Labour Party, Victoria. I've had people stopping me, literally stopping me in the street today, who I've never met, saying this is an outrage. I've had emails, I've had social media and you know what, if you alienate people, if we look at our part of the world which voted Leave, that was not because people were interested in the machinations of the European Commission, it's because they felt left behind. It's because they -*

**Presenter:** *Well, Mike Katz went on to say that you should apologise for sitting alongside Ken Loach because you absolutely knew his views that he had, as Mike Katz says, it's denialism, he denied the extent of antisemitism in the Party, and you should apologise for sitting alongside him. Would you like to take the opportunity to do that?*

**Mr Driscoll:** *I think it's entirely unreasonable to, I reject the premise of that, talking to Ken Loach about films that he's made, and you know how many feature films have been set in the North East in the past decade? Three. All Ken Loach films. It is a big deal culturally here.*

**Presenter:** *OK well let me bring Paul Richards. Do you accept that?*

**Mr Richards:** *No, I don't. And if somebody applies for a job and there are clear criteria and they fail on those criteria, they shouldn't be expected a free pass into the short list. Any other organisation would say, well, if you don't meet the criteria, and don't forget it's a new job, it's not the job that Mr Driscoll is doing now, and there are plenty of other candidates far better equipped to take that on.*

**Presenter:** *Well, let me put this to you. Jamie Driscoll has achieved the following as Mayor: He says he's created over 4,000 jobs from a standing start; businesses have signed up to the voluntary good work pledge, which now improves the pay and working conditions of over 50,000 workers; he's set up a venture capital fund owned by the combined authority; he says he's brought big companies to set up in the area. Those are alright achievements.*

**Mr Richards:** *Well, great and congratulations to him, but this is a new role. He didn't meet the criteria. The criteria was very clear. If you do something that is going to allow our opponents a stick with which to beat us, not just in this election, but any election across the country, 'them's the rules', and the people on this panel are the people the Labour Party elected to uphold the rules, to hold up the constitution of our Party ahead of a big, very important General Election. He fell foul of that. Now, no one's*

*entitled to this candidature and if there are better candidates, then those are the ones that the members in the North East will select to do this job. You know, if I was offered an opportunity to stand on a platform with Ken Loach, I wouldn't chat to him about movies. I would challenge him on some of the odious and repulsive things he has said over the last 25 years.*

Presenter: *Did you do that, Jamie Driscoll?*

Mr Driscoll: *Did I talk to... yeah, I was talking to Ken Loach about film.*

Presenter: *No, no, no, no. Did you challenge him on some of his views?*

Mr Driscoll: *No. Again, I reject the premise of this. You don't turn up to a cultural event and then start talking about something you weren't invited to talk about.*

Presenter: *Why not? Why not?*

Mr Driscoll: *Well, exactly what are we talking about here? Are we talking, if someone wants to say Ken Loach is antisemitic, they should come out and say it and stop all these briefings. But, I want to challenge Paul's criteria there about being good at the job. I am a sitting Metro Mayor. If I'm not good enough to be a sitting Metro Mayor, why has the Labour Party not taken disciplinary action? This is going to damage Labour. He's raising the argument there about I haven't met the threshold. There is no published threshold.*

Mr Richards: *It's a different job, Jamie. Jamie, it's not the job you're doing now. It's a totally different job with a much bigger constituency.*

Mr Driscoll: *Now, Paul, I know a lot more about the North East than you do. I'm doing this job now, mate. And I'm widely respected, cross-party. I'll tell you what, Gateshead Labour Group tonight has refused to nominate on the basis of the way I've been treated. Independents have put in motions to councils -*

Mr Richards: *You sound like David Brent. You sound like David Brent, somehow entitled to do the job. You know, this lot behind me? Well, they'll back me no matter what. The rules are there for everyone, aren't they Jamie? For everybody? Even you, even you should obey the rules.*

Mr Driscoll: *You are showing a total disregard if you think, you believe in democracy, why not let the members make that decision? I'm not asking to be slotted into the job. I'm asking to be allowed to put my case to members so they can choose.*

Mr Richards: *You've been treated no differently from any other Labour candidate. Every other Labour candidate is asked the question: 'Is there anything*

*there that's going to allow our opponents to beat us up in an election?' And you've not apologised for it. You've admitted you did it. It's against the rules and you know that. And now you are pretending that you've been treated differently from-*

Mr Driscoll: *Which rule says you can't talk to a filmmaker about film? You're making that up, mate. You're making it up as you go along. Now-*

Mr Richards: *If I had that chance, though, I would stand up for the Jewish members of our Party who are so offended by what he's done over the last... and you didn't mention a word of it.*

Mr Driscoll: *Now, stop talking over me and let me get my point in please. You are showing contempt for the people of the North East. This will come back to bite the Labour Party. I've had people say 'I voted Labour all my life, I'm never going to'. I know of one person who got in touch, who I don't know, who said 'I dumped a load of leaflets I was going to deliver back on the doorstep of the Party office because I'm refusing to support the Party'. This makes Labour look bad. it makes it look like a control freak Party. People in the Labour Party, soft Left centre, are living under the Sword of Damocles because everybody knows that they could be next.*

Presenter: *OK, final, very brief word.*

Mr Richards: *Well, we're going to select a great candidate for this election. I hope people will vote Labour and there's some great people in the running and no one is bigger or better than the Party or the rules. Simple as that.*

Presenter: *Thank you very much, Paul Richards and Jamie Driscoll. And just to say, Ken Loach is not accused of antisemitism. He was expelled in 2021 during the antisemitism inquiries".*

The programme then moved on to other topics with no further reference to Mr Loach.

## Summary of the complaint and broadcaster's response

---

### Complaint

Mr Loach complained that he was treated unfairly in the programme as broadcast because the presenter inaccurately said that he had been "*expelled from the [Labour] Party for supporting members accused of antisemitism*", and did not challenge comments made about him by Mr Katz (who was quoted in the programme) and Mr Richards. In particular:

- Mr Loach said that this was incorrect for the presenter to say that he had been "*expelled...for supporting members accused of antisemitism*". He said that he was, in fact, expelled from the Labour Party as a result of his alleged support of a political organisation other than an official Labour Party group. Mr Loach said that "*antisemitism was not*

mentioned in my expulsion” and that he has “not supported anyone whose words or actions are demonstrably antisemitic or racist”. He said that, although the presenter said at the end of the programme that he had not been accused of antisemitism, this was undermined by her statement that Mr Loach “*was expelled in 2021 during the antisemitism enquiries*”, thereby linking Mr Loach’s expulsion with antisemitism in the minds of the ordinary viewer.

- Mr Loach said that the programme included a quote from Mr Katz, the Chair of the Jewish Labour Movement, that referred to him as “*someone with these disgraceful views and track record*”. Mr Loach said that this “deeply offensive, vague and unspecific” comment was left unchallenged by the presenter, who then used it as a basis for a question to Mr Driscoll on whether he would apologise for appearing on a panel event alongside Mr Loach. Mr Loach complained that he was not given an opportunity to respond to Mr Katz’s comments and said that there was no balancing quote from an authoritative source. Mr Loach said that, while he recognised that the programme was a live broadcast and that there was no provision for an immediate rebuttal from him, Mr Katz’s views were known and his comment had been obtained before the broadcast, so Mr Loach could therefore have been given an opportunity to respond prior to transmission. Mr Loach said that he had responded to Mr Katz many times over the years and that his rebuttals were easily available, but were not included in the broadcast programme.
- Mr Loach said that Mr Richards had said in the programme that, if he had been on a panel with Mr Loach, he “*wouldn’t have spoken to him about movies, I would have challenged him on the odious and repulsive things he has said over this last 25 years*”. Mr Loach said that the presenter did not challenge Mr Richards’ comments, but instead asked Mr Driscoll if he had challenged Mr Loach on his views. Mr Loach said that the presenter “took as given that my views were indeed ‘odious and repulsive’” and that her failure to challenge Mr Richards’ comments suggested to viewers that they had a sound basis and were generally accepted. He said that Mr Richards’ comments were “untrue, an extremist opinion and certainly not a matter of general acceptance”. Mr Loach said that he was not given an opportunity to respond to these allegations. He added that, while the programme was live and he understood that there was no provision for an immediate rebuttal from him, Mr Richards’ views about Mr Loach were known prior to the broadcast, so Mr Loach could therefore have been given an opportunity to respond prior to transmission.

## Broadcaster’s response

The BBC said that Mr Loach was not treated unfairly and that the programme made clear that: Mr Loach was not accused of antisemitism; he was not there to respond; such charges were viewed by many as factional and part of a “purge” in which legitimate complaints were unfairly used as excuses to expel members; and that in the view of a guest the criticisms he faced arose from “vague and unsubstantiated briefings”.

In response to the specific elements of Mr Loach’s complaint, the BBC said:

- The focus of the programme was the Labour Party’s handling of Mr Driscoll’s case, rather than Mr Loach or his expulsion from the Party. It said that, nevertheless, the facts regarding his expulsion were presented fairly and accurately.

The BBC said that the programme’s Political Editor explained earlier in the programme what had happened to Mr Loach and that viewers would therefore have understood what

followed in light of this explanation, to which it said Mr Loach had not objected. The BBC added that Mr Driscoll made it clear that Mr Loach had not been censured by the Labour Party for antisemitism, but for querying the disciplinary processes of the Party.

The broadcaster said that “some distinction may be articulated between standing by members and groups which had criticised Labour’s approach to tackling antisemitism and supporting members accused of it”, but it said that, given the facts of the case, it did not agree that the distinction was so significant as to amount to unfairness. The BBC referred to a post on social media by Mr Loach at the time of his expulsion from the Labour Party, in which he said that this was because he would not disown people who had been expelled:

“Labour HQ finally decided I’m not fit to be a member of their party, as I will not disown those already expelled. Well ... I am proud to stand with the good friends and comrades victimised by the purge. There is indeed a witch-hunt ... Starmer and his clique will never lead a party of the people. We are many, they are few. Solidarity”.<sup>2</sup>

The broadcaster also referred to an interview in which it said that Mr Loach confirmed that his expulsion concerned his support for a “proscribed organisation”.<sup>3</sup> The BBC said that, in that interview, Mr Loach expressed his support for individuals who were members of those groups, and his belief that this was a “witch-hunt”:

“I’m not a member of any of the proscribed organisations. But I support many of the people who have been expelled, because they are good friends and comrades. A witch-hunt within the party is in progress, and I will not renounce them”.

The BBC said that Mr Loach did not name the organisations, but said that his expulsion closely followed the proscription of four groups, including, ‘Resist’ and ‘Labour Against the Witch Hunt’. It said that ‘Resist’ was set up by a former Labour MP, who it said was suspended by the Labour Party after criticising efforts to tackle antisemitism. The BBC said that critics of this former Labour MP had argued that he had sought to downplay antisemitism in the Party and had defended people accused of antisemitism. The broadcaster said that Mr Loach had defended the former MP.<sup>4</sup> It said that Mr Loach was a sponsor of the group ‘Labour Against the Witch Hunt’, which had argued claims of antisemitism in the Labour Party were politically motivated and whose Chair was suspended, and subsequently expelled, from the Party for “prejudicial and grossly detrimental behaviour against the party” following comments about Jewish people and the slave trade, the safety of Jewish schools and Holocaust Memorial Day.<sup>5</sup> The BBC said that Mr Loach was entitled to the view that these expulsions were unfair, and that the individuals were not guilty of antisemitism. However, the BBC said that the programme did not state that the people were

---

<sup>2</sup> <https://twitter.com/KenLoachSixteen/status/1426478741455360003>

<sup>3</sup> <https://jacobin.com/2021/08/ken-loach-keir-starmer-labour-party-ejection-corbyn>

<sup>4</sup> <https://www.jewishvoiceforlabour.org.uk/article/chris-williamson-mp-update/>

<sup>5</sup> <https://www.theguardian.com/politics/2019/mar/27/labour-expels-jackie-walker-for-leaked-antisemitism-comments>



guilty of antisemitism, only that they had been accused of it, which it said was supported by the facts<sup>6</sup> and <sup>7</sup>.

The broadcaster said that the programme made very clear that many people had found the approach of the Labour Party to be “unfair and factionalist”. It said that the extent to which the presenter’s reference had the effect Mr Loach assigned to it in his complaint was very limited indeed, particularly given the context provided by the programme’s Political Editor and the explanation given by Mr Driscoll.

- The BBC said that, as Mr Loach acknowledged in his complaint, there was no opportunity to turn to him for a rebuttal in a live programme, but that the presenter made it very clear that Mr Loach was not accused of antisemitism when she said: “*and just to say, Ken Loach is not accused of antisemitism*”. The broadcaster said that the introduction from the programme’s Political Editor had stressed the nature of the expulsion from the Labour Party had been Mr Loach’s loyalty to groups that had been criticised, rather than anything he had said. The BBC said that Mr Driscoll explicitly queried the evidence for “such vague charges against Mr Loach” and assigned them to people who briefed to that effect, but did not “*come out and say it*”. The BBC said that the view of Mr Katz referred to in the programme was clearly an opinion in the context of a broader discussion in which it was apparent that many considered such accusations to be “factional in nature and part of a purge”.

The broadcaster said that, given this context, viewers would have understood that they were hearing one person’s unsubstantiated view, which was disputed, and that they were reminded that Mr Loach was not there to respond, but that he had not been accused of antisemitism. The BBC reiterated that the focus of the programme was on the case of Mr Driscoll and therefore it did not agree that fairness to Mr Loach demanded a rebuttal from him.

- The BBC said that the opinion of Mr Richards was “plainly a partisan view in what was patently a contested area”, in a conversation during which it was made clear that many considered such criticisms were factional in nature. It said that asking Mr Driscoll to respond to the point made by Mr Richards did not have the effect of endorsing it, but of allowing him to reply, to explain that he rejected the premise of the question and to query “exactly what we are talking about here”. The BBC said that it would have been apparent from his response that Mr Driscoll considered this to be “an unevicenced charge which had been confected” and a premise (that he ought to have talked to Mr Loach about these claims, rather than his films) which he rejected. The broadcaster said it did not agree that this question would have been understood as suggesting that Mr Richards’ comments were on a sound basis.

The broadcaster said that the programme was an accurate and impartial account relating to Mr Driscoll’s association with Mr Loach and the consequences that this had had for Mr Driscoll’s candidacy – which was the focus of the piece. It said that the extent to which viewers would look to it for an understanding of Mr Loach’s position was therefore limited.

---

<sup>6</sup> <https://www.politicshome.com/news/article/jackie-walker-expelled-by-labour-over-holocaust-comments>

<sup>7</sup> <https://www.thejc.com/comment/analysis/what-exactly-has-labour-mp-chris-williamson-done-to-offend-jews-here-s-a-long-list-1.485890>

The BBC reiterated that Mr Driscoll defended Mr Loach, pointing to unevidenced briefings which did not amount to accusations, and accurately describing the terms of his expulsion. It said that the presenter also stressed that Mr Loach was not accused of antisemitism.

## Ofcom's Preliminary View

---

Ofcom prepared a Preliminary View that Mr Loach's complaint should be not upheld. Both parties were given the opportunity to make representations on the Preliminary View, which, insofar as they are relevant to the complaint entertained and considered by Ofcom, are summarised below.

### Complainant's representations

Mr Loach disagreed with Ofcom's Preliminary View to not uphold his complaint. He said that there were significant allegations made against him and that they were related to, but independent of, the conversation with Jamie Driscoll. Mr Loach said that he should have been given an appropriate and timely opportunity to respond.

Mr Loach said that the fact the allegations were mainly vague and unspecific does not mean that they were not serious, and that they were certainly damaging, both professionally and personally. He said that the vagueness of the allegations meant that viewers were left to speculate that 'something bad has been said or done, and the BBC thinks it is worth using as the basis for an interview'. Mr Loach said that this is the classic method of 'smear' - there is no specific accusation to refute but a clear indication that the person named has unacceptable views. He said that, in this context, it meant racist views.

Mr Loach said that, in its Preliminary View, Ofcom limited the context in which the attack on him may be considered. He said that his function in the programme was restricted to demonstrating that criticism of him existed in Labour ranks and that this excluded evaluating the validity of the criticism itself. Mr Loach said that this narrow view of the context therefore worked against fair treatment of his reputation and good name. He said that if the justification for the accusations made against him had been tested, the accusations may have been found to be wildly exaggerated or unsustainable and in that case, he would not have been an unsuitable speaker to appear alongside Mr Driscoll. Mr Loach said that responsible journalism would do this and a wider context would reveal this. He asked Ofcom to reconsider the narrow context it had set for this case.

Mr Loach said that asserting at the end of the item that he had not been accused by the Labour Party of antisemitism is not an adequate response to his alleged "disgraceful views or track record" or the even more damaging comments from Mr Richards.

Mr Loach said that the generalised nature of Mr Katz' comment does not mean that it was not damaging to his professional reputation or integrity. He said that such unfounded allegations lead to attempts to undermine his work and status in the industry and are not casual insults with no consequences. He said that they should be taken seriously and considered as 'significant allegations' under Practice 7.11.

Mr Loach referred to Mr Katz' quote in the programme that "it's denialism, he denies the extent of antisemitism in the party". Mr Loach said that the extent of antisemitism in the Labour Party is a contentious issue among party members. He referred to an investigation by The Equality and Human Right Commission, which concluded the following in its report:

“Article 10: It is not antisemitic to express ...opinions on internal party matters such as the scale of antisemitism within the party, based on their (members’) own experiences”.

Mr Loach said that the view that antisemitism was exaggerated for political purposes is also widely held in the Party, including amongst Jewish members e.g. Jewish Voice for Labour (JVL). He said that, given this, his views were not exceptional and were not antisemitic and in fairness this should have been pointed out by the presenter.

Mr Loach said that the presenter’s reference to him saying that the reason given for removing Mr Driscoll as a candidate “was the lamest excuse I’ve ever heard” was a remark from another context and was not an adequate rebuttal of the specific allegation of “denialism” quoted in the programme.

Mr Loach reiterated that the comments made by Mr Richards in the programme were seriously damaging and vague accusations which were dangerous in that they created a sense that there was something unacceptable and, in this context, racist about the person accused. Mr Loach acknowledged that viewers may have understood this to have been Mr Richards’ personal opinion but said that the presenter took Mr Richards’ opinion seriously enough to base her next question on it (“*Did you challenge him on some of his views?*”) and moments later she persisted (“*why not, why not?*”). Mr Loach accepted that Mr Driscoll provided a partial defence, but said that there was an issue of balance as the presenter did not put Mr Driscoll’s point back to Mr Richards, whereas she did put Mr Richards’ question to Mr Driscoll twice. Mr Loach also questioned why the presenter did not challenge the validity of the accusation.

Mr Loach said that this was an important matter for “anyone whose good name is maligned and who is not present to defend him or herself”.

## Broadcaster’s representations

The BBC made no representations on Ofcom’s Preliminary View.

## Decision

---

Ofcom’s statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from unjust or unfair treatment in programmes in such services.

In carrying out its duties, Ofcom has regard to the need to secure that the application of these standards is in the manner that best guarantees an appropriate level of freedom of expression. Ofcom is also obliged to have regard, in all cases, to the principles under which regulatory activities should be transparent, accountable, proportionate and consistent and targeted only at cases in which action is needed.

In reaching its decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording and transcript of the programme and transcript, and both parties’ written submissions including representations made by the complainant in response to the Ofcom’s Preliminary View. After careful consideration of the representations, we considered that the points raised did not materially affect the outcome of Ofcom’s Preliminary View to not uphold the complaint.

When considering complaints of unjust or unfair treatment, Ofcom has regard to whether the broadcaster’s actions ensured that the programme as broadcast avoided unjust or unfair treatment

of individuals and organisations, as set out in Rule 7.1 of [Ofcom's Broadcasting Code](#) (the "Code"). In addition to this Rule, Section Seven (Fairness) of the Code contains "practices to be followed" by broadcasters when dealing with individuals or organisations participating in, or otherwise directly affected, by programmes. Following these practices will not necessarily avoid a breach of Rule 7.1 and failure to follow these practices will only constitute a breach where it results in unfairness to an individual or organisation in the programme.

In considering this complaint, Ofcom had regard to the following Code Practices:

Practice 7.9: "Before broadcasting a factual programme, including programmes examining past events, broadcasters should take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation...".

Practice 7.11 "If a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an appropriate and timely opportunity to respond".

Before assessing the specific heads of complaint, it is important to state at the outset that it is not Ofcom's role to reach a finding of fact in relation to the allegations made in the programme. Our role in this case was solely to consider whether the broadcaster took reasonable care not to present, disregard or omit material facts in a way that resulted in unfairness to Mr Loach. Whether a broadcaster has taken reasonable care to present material facts in a way that is not unfair to an individual or organisation will depend on all the particular facts and circumstances of the case, including, for example, the seriousness of any allegations made against them and the context in which such allegations are made.

We took into account Mr Loach's representations on Ofcom's Preliminary View that the context in which Ofcom considered the complaint was too narrow and that the justification for the accusations made against him should have been tested. However, as explained above, it is not Ofcom's role to reach a finding of fact in relation to the criticisms made in the programme, or to determine whether the views expressed by Mr Richards, or the inclusion of the comment made by Mr Katz, were valid. Therefore, in considering each element of the complaint, it was still relevant to have regard to the overall context in which the claims about Mr Loach were made, namely that Mr Driscoll had not been selected by the Labour Party for the list of candidates for the North East Mayoralty. It was said that this was because of his decision to appear on a panel event alongside Mr Loach, and his refusal to apologise for doing so. The programme said: "*One senior Labour MP said Jamie Driscoll was barred after appearing on a panel with filmmaker Ken Loach*". The focus of the programme was therefore on this claim with Mr Driscoll appearing on the programme in which he expressed his disagreement with the decision, explained that he appeared on a panel with Mr Loach in his capacity as a filmmaker, and that the current Labour Party leadership was carrying out a "purge" within the Party. It was in this context that Ofcom proceeded to consider the specific elements of Mr Loach's complaint.

- We first considered Mr Loach's complaint that the programme had linked his expulsion from the Labour Party with antisemitism, despite his assertion that antisemitism was not mentioned in his expulsion and that he has "not supported anyone whose words or actions are demonstrably antisemitic or racist".

We took into account that the presenter had said in the introduction to the segment that Mr Loach “...was expelled from the party for supporting members accused of antisemitism”, and that the programme’s Political Editor had said that Mr Loach “was expelled from the Labour Party in 2021 after he stood by groups which had criticised Keir Starmer’s attempts to tackle antisemitism in the Labour Party”.

We acknowledged that Mr Loach was named in connection with Labour Party members who had been accused of antisemitism, and that both the presenter and the Political Editor had referred to him as having been expelled from the party for his apparent support for these members. However, we also took into account that as the programme continued, Mr Driscoll made it clear in his interview that Mr Loach was “someone who may have been expelled from the Labour Party, but let’s be clear was not expelled for antisemitism, [but] was expelled for complaining about the Labour process”. We also took account of the fact that at the end of the segment, the presenter clarified that: “And just to say, Ken Loach is not accused of antisemitism. He was expelled in 2021 during the antisemitism inquiries”.

In our view, while we recognised that the comments made at the beginning of the segment may have had the potential to suggest to viewers that the reason Mr Loach had been expelled from the Labour Party was for supporting groups who were accused of antisemitism, taking the programme as a whole, we considered that it was made sufficiently clear to viewers that Mr Loach himself had not been accused of antisemitism, and that Mr Driscoll had clarified that Mr Loach had been expelled “for complaining about the Labour process”, rather than for “supporting members accused of antisemitism”. We also took into account the broadcaster’s submission that the programme did not state that any of the former Labour Party members that Mr Loach had supported had actually been “found guilty” of antisemitism, but that they had been “accused” of it. We also considered that viewers would have been likely to have understood that the focus of this part of the programme was on Mr Driscoll and his claims about not being selected to stand for the mayoral election as a Labour Party candidate, and as such, viewers would have been unlikely to have expected the programme to have given a detailed account of the reasons for Mr Loach’s expulsion from the Labour Party. Further, we took into account Mr Loach’s representations that the extent of antisemitism in the Labour Party is a contentious issue among party members and that “the view that antisemitism was exaggerated for political purposes is also widely held in the Party”. We considered that this wider context was adequately reflected in the programme, with Mr Driscoll commenting that “the Sword of Damocles is hanging over everybody in the Labour Party who doesn’t fit this centralising tendency”. We therefore considered that viewers were provided with adequate information to form their own views as to Mr Loach’s expulsion from the Labour Party.

Given all the above, we did not consider that, on balance, Mr Loach was treated unfairly in this respect.

- In considering Mr Loach’s complaint that it was unfair to include a quote from Mr Katz without providing his response to it, we took into account that the presenter said to Mr Driscoll:

*“Jamie Driscoll, first of all, I want to read this quote to you, if I may. And it’s from Mike Katz, Chair of the Jewish Labour Movement. Um, and this is what he said of you: ‘Quite how anyone, let alone the most senior regional leader in the North East can think that it’s OK to organise an event with*

*someone with these disgraceful views and track record is beyond us. There is no ignorance here. Mr Loach's views are known, and therefore it is a choice'. **Obviously, Mr Loach isn't here [Ofcom's emphasis].** But that's the quote from Mike Katz...why did you make that choice?"*

After Mr Driscoll explained why he had attended the panel event, the presenter said:

*"Well, Mike Katz went on to say that you should apologise for sitting alongside Ken Loach because you absolutely knew his views that he had, as Mike Katz says, it's denialism, he denied the extent of antisemitism in the party, and you should apologise for sitting alongside him. Would you like to take the opportunity to do that?"*

We recognised that Mr Loach considered that Mr Katz' comments went unchallenged by the presenter and were used as a basis for a question to Mr Driscoll on whether he would apologise for appearing on the panel alongside Mr Loach. We considered that, given that the focus of this part of the programme was on Mr Driscoll's response to not being able to stand as a Labour Party candidate in the North East Mayoralty election as a result of appearing on a panel with Mr Loach, it was not unreasonable for the presenter to question Mr Driscoll about criticism that had been made publicly about his attendance at the event with Mr Loach. While we recognised that Mr Loach found the quote from Mr Katz to be "deeply offensive, vague and unspecific", we considered that it was made sufficiently clear to viewers that the comments quoted by the presenter were attributable to Mr Katz, whom the programme clarified was "*Chair of the Jewish Labour Movement*", and that they represented Mr Katz's opinion of Mr Loach. Given this, we did not consider that the quoting of Mr Katz' public criticism of Mr Loach amounted to a significant allegation that required a specific response from Mr Loach prior to broadcast. Further, we took into account that the presenter had acknowledged that Mr Loach was not present to provide his point of view, and had made it clear at the end of the programme that "*Ken Loach is not accused of antisemitism*". We also took into account that Mr Loach's views on whether or not Mr Driscoll should have been "*banned*" from standing for the North East Mayoralty as a result of appearing alongside him, which was the focus of the report, were reflected in the programme when the presenter said: "*Mr Loach said keeping Mr Driscoll off the long list because they shared a platform was, quote, 'the lamest excuse I've ever heard'*".

Taking all these factors above into account, therefore, we did not consider that Mr Loach was treated unfairly in this respect.

- In considering Mr Loach's complaint about the comments made by Mr Paul Richards in the programme, we acknowledged that Mr Richards was critical of Mr Loach, saying: "*if I was offered an opportunity to stand on a platform with Ken Loach, I wouldn't chat to him about movies. I would challenge him on some of the odious and repulsive things he has said over the last 25 years*" and "*If I had that chance though I would stand up for the Jewish members of our party who are so offended by what he's done, and you didn't mention a word of it*". However, we considered that these comments would have been clearly understood by viewers to have been Mr Richards' personal opinion of what he claimed he would have done if he was in Mr Driscoll's position at the event with Mr Loach. We took the view that Mr Richards' comments were not specific in nature and did not outline any significant allegations about Mr Loach that we considered required a specific response from him prior

to the programme. We also considered, and as already set out above, that it was Mr Driscoll and his situation regarding the North East Mayoralty that was the focus of this part of the programme, not Mr Loach and the reasons for his expulsion, and viewers would have understood this to be the case.

With regards to the presenter then asking Mr Driscoll if he had challenged Mr Loach on his views at the event, we considered that, rather than endorsing Mr Richard's views, the presenter afforded Mr Driscoll with the opportunity to reply. We took into account that Mr Driscoll explained that he *"reject[s] the premise of this"* and questioned the presenter and Mr Richards' approach, asking *"exactly what are we talking about here? Are we talking, if someone wants to say Ken Loach is antisemitic, they should come out and say it and stop all these briefings"*. We considered that, even if viewers had interpreted Mr Richards' comments as meaning that Mr Loach had been antisemitic, which we do not consider would have been the case, it was clear from the remainder of the programme that there was no apparent factual basis for this. Further, as explained above, the presenter made it clear to viewers that Mr Loach was not present to respond, and that he had not been accused of antisemitism.

Taking all these factors above into account, therefore, we did not consider that Mr Loach was treated unfairly in this respect.

For all the above reasons, and taking the relevant part of the programme as a whole, we did not consider that material facts had been presented, disregarded or omitted in a way that resulted in unfairness to Mr Loach in the programme as broadcast. Nor did we consider it was required of the broadcaster, given the particular circumstances of this case, to have given Mr Loach an opportunity to respond prior to the programme being broadcast.

**Ofcom has not upheld Mr Loach's complaint of unjust or unfair treatment in the programme as broadcast.**