



**PALESTINE
SOLIDARITY
CAMPAIGN**

www.palestinecampaign.org

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[DATE]

Dear Mayor Biggs

We are writing with regard to the Council's decision not to allow The Big Ride for Palestine to finish with a rally in one of the Council-run parks. We are conscious you may be unaware of this decision and of the grounds on which it was made. We have taken legal advice and have been informed that the decision was unlawful. As such, we are requesting that you take the action outlined below to remedy the concerns that arise from this decision and how it was made.

The Big Ride is an annual event now in its 5th year. It seeks to combine a love of cycling with awareness raising of the rights deprivations suffered by the Palestinian people and showing solidarity with their struggle for justice. It raises money for children's charities in Gaza. The Ride has attracted significant and widespread endorsement from MPs from numerous political parties as well as prominent public figures.

We have obtained, via a Freedom of Information request, copies of emails which make it clear that the decision to disallow The Big Ride to hold its closing event in a Council-run park was made on the basis of concerns that the event risked violating the IHRA definition of antisemitism. These concerns, as revealed in the emails, were based on The Big Ride's reference on its website to the documented history of ethnic cleansing of Palestinians in 1948 and the fact that speakers attending the rally might not subscribe to the IHRA definition. In essence it is clear from the email exchanges that your officers believed that to allow an event to take place at which references to Palestinian experiences of dispossession and oppression might be referenced would be antisemitic. None of these concerns were addressed with the organisers of the event who were given an entirely different rationale for permission being refused.

We have taken legal advice and have been informed that the decision was unlawful. Most fundamentally, the Council's decision constituted an unlawful interference with the freedoms of expression, assembly and conscience combined with a misapplication of the IHRA definition of antisemitism.

We are requesting that, as Council leader, you act decisively to remedy a decision which we know will cause significant public concern about the ability of Council staff to ensure that freedom of expression is maintained within Tower Hamlets:

- Firstly, we are requesting an acknowledgement that the decision made by Council staff was made in error, and that you will offer an apology to The Big Ride for that fact alongside a reassurance that any request by them to use a Council Park next year as the finishing venue for the Ride will not be refused on any such ground.
- Further, it's clear that this decision confirms concerns expressed to you last November when the Council voted to endorse the IHRA definition and refused to add accompanying sentences that would preserve the ability to bring the facts of Palestinian history into the public domain and call for action to address their ongoing oppression. At that time, those



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petitioning for the introduction of such clauses were reassured that the adoption of the IHRA would carry no such threats to these fundamental rights that should be protected under Article 10 of the Human Rights Act. It is now clear that without such additional clauses Council officials are likely, as on this occasion, to interpret the IHRA in a way which violates these essential rights and freedoms. We will therefore be petitioning the Council to revisit its decision regarding the IHRA and act to insert the following accompanying text:

- It is not antisemitic, unless there is additional evidence to suggest anti-Jewish prejudice, to:
 - criticise the Government of Israel;
 - criticise Zionism as a political ideology;
 - describe any policy or law or practices of the state of Israel as racist, including acts leading to Palestinian dispossession as part of the establishment of the state;
 - describe Israel as an apartheid state;
 - advocate boycott, divestment and sanctions against Israel

If the Council should refuse to act to address the concerns raised by this decision and remedy them, then we may have no option but to pursue a complaint to the Local Government Ombudsman.

We would like to meet with you at the earliest possible date to discuss these issues and your response to them.

Legal Issues:

On the issue of freedom of expression and the IHRA definition, we would refer you to the legal opinion of Hugh Tomlinson QC (attached). As identified by Mr Tomlinson QC there are significant problems with the use of the IHRA definition as a “tool” for making legal decisions or as a basis for exercising public powers, and there are also significant risks in relying on the “examples” given in the definition without reference back to the definition itself. Mr Tomlinson QC explains that such risks can only properly be mitigated if the definition is interpreted in a manner consistent with the European Convention on Human Rights. We consider that the Council has clearly failed to do that in this case:

- In particular, any interference in the rights of freedom of expression and assembly must be justified in a manner that is “convincingly established” and those rights protect not just information and ideas that is regarded as inoffensive, but also those that may “offend, shock or disturb the State or sector of the population”. And while public authorities should, of course, restrict or prohibit those events that meet the test of being “a direct or indirect call for violence or as a justification of violence, hatred or intolerance”, the issues at play in this case are not, in our view, matters that in any way meet this test or that even should “offend,



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- shock or disturb". As indicated, the concerns raised by your officers in your email exchanges regarding possible violations of the IHRA are that on the website references are made to the ethnic cleansing of Palestinians and comparisons between South African apartheid and Israel's oppression. These are narratives endorsed by a wide range of historians, human rights monitoring bodies and political commentators.
- Both the Council's policy and the IHRA definition must be interpreted in this context. Accordingly it is clearly unlawful for the Council to act, as it has in this case as if it has an absolute right to prohibit events that might be "controversial or sensitive". Such events cannot be put in the same category as events that are "obscene, sexist, homophobic [or] racist". Instead, the Council must balance the allegedly "controversial or sensitive" nature of any events against the fundamental nature of the freedoms of expression, assembly and conscience. It has patently failed to do so in this case.
 - Similarly, the Council has failed to properly interpret the IHRA definition in a manner that is consistent with such rights. While we do not consider there is anything that the Council has identified that would fall within any aspect of the definition, even if there were statements that feel within some of the examples, they would also need to "manifest a hatred against Jews". There is no basis on which the Council could find that such a hatred had been manifested – indeed, The Big Ride goes to great lengths to confirm that their concerns relate to the state of Israel not the Jewish community.
 - In this respect, the Council also failed to take into account its own definition of Islamophobia. By prohibiting the message of The Big Ride, which included that "with every mile you ride, you are protesting against 67 years of Israeli ethnic cleansing of Palestinians" and that there are parallels between Apartheid South Africa and the state of Israel, the Council has implicitly accused The Big Ride of "*inventing or exaggerating... ethnic cleansing... perpetrated against Muslims*" and has further implicitly denied calls for the State of Palestine to have a right to self-determination, which the Council itself accepts can be Islamophobic.
 - There is evidence that the Council accepted that it had not followed proper procedures. Rather than provide its full reasons for refusing The Big Ride's application it was agreed that it should "avoid the anti-Semitism aspect...as this could open a can of worms and come back to bite us". Instead the Council relies only on the difficulties for the Council in being able to "risk assess and provide the necessary level of assurance that [it] will run without problems for us as the landlord of the site." Specific reference is made to uncertainties about event planning, security and the identities of speakers.
 - If those were the full and genuine reasons for the decision, then The Big Ride should have been given an opportunity to address the Council's concerns before a final decision was made. The Big Ride had made clear it was extremely flexible as to its arrangements and the space it would require and all of the stated concerns could have been appropriately addressed. The failure to give genuine reasons and an opportunity for The Big Ride to respond to the any genuine concerns the Council held are themselves grounds of unlawfulness and of significant concern.



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- Finally, with regard to the concern that speakers attending the rally might not subscribe to the IHRA, the Council should be aware that the IHRA has been criticised with regard to threats to freedom of expression by eminent lawyers, respected members of the Jewish community, academic experts on antisemitism, and bodies such as the Institute for Race Relations. None of these could therefore be said to “subscribe to the IHRA”. We draw your attention in particular to a letter from eminent Jewish figures published in the Guardian last summer, and a subsequent letter endorsing it signed by over 60 parliamentarians and public figure including Rushanara Ali MP. [1][2]

Given the seriousness of these concerns and the public interest we believe they will generate we are keen to have a response at your earliest convenience and, as requested, an early date to meet with you to discuss a resolution to this issue.

Yours sincerely,

Ben Jamal

*Director of Palestine Solidarity
Campaign*

Sybil Cock

*Tower Hamlets Palestine
Solidarity Campaign*

Owen Cooper

The Big Ride for Palestine

[1] https://www.theguardian.com/news/2018/jun/15/we-must-define-antisemitism-to-fight-it-effectively?CMP=share_btn_tw

[2] <https://www.jewishvoiceforlabour.org.uk/article/support-for-a-new-definition-of-antisemitism/>