

# Labour donor's legal effort to oust Corbyn fails

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High Court judge Justice Foskett ruled Thursday that the Labour Party's National Executive Committee (NEC) was "correct in law" in its decision that party leader Jeremy Corbyn did not need the nomination of 20 percent of MPs or MEPs in order to stand in a leadership contest.

The legal challenge, claiming that Corbyn had to secure nominations under the party's rulebook, was brought by millionaire Labour donor and Blairite Michael Foster and was aimed at removing Corbyn from the ballot.

Foster's legal team argued that the July 12 NEC split decision—secured largely by the trade union vote—to automatically include Corbyn as sitting leader was a misinterpretation of conflicting legal advice. Other candidates in the election had to secure the backing of 50 MPs and Members of the European Parliament—that is, 20 percent of the combined Commons members of the Parliamentary Labour Party (PLP) and European PLP.

Such is the depth of the right-wing's hostility to Corbyn that both sides in court were represented by his opponents. The legal challenge named Labour's General Secretary Iain McNicol as defendant. McNicol wanted Corbyn to be excluded and only allowed legal opinion to this effect to be read out at the NEC. Corbyn was forced to launch an ultimately successful legal bid to be included as a second defendant in the case, on the basis that it was "pressing and obvious" that he had not been adequately represented by McNicol in the same manner as had other Labour members.

Justice Foskett ruled that the NEC was "right to conclude that Mr Corbyn was entitled to be on the ballot paper without the need to obtain any level of nominations." Referring to the relevant clauses in Labour's constitution, which refer only to a

"challenger" requiring nominations, Foskett said they "reveal a natural and ordinary meaning that seems to me to be entirely clear."

Gavin Millar QC, Foster's barrister, argued that the reading of the rules by the majority of the NEC "was not a reasonable interpretation." He claimed, "There is no distinction in the rules between the leader candidate to be automatically on the ballot paper or the challenger candidate."

In his written argument, Millar told the Court that should the judge rule in Foster's favour, the Labour Party should go back to the 48-hour window for fresh leadership nominations. This would allow Corbyn a "fair opportunity" to obtain the requisite number of nominations, he claimed.

There was nothing "fair" about this. Foster brought the case knowing that 170 MPs had voted for a no-confidence motion in Corbyn, as part of an orchestrated coup that had led to the present leadership contest. Corbyn only had the support of, at most, 40 MPs.

The barrister for Labour's NEC, Mark Henderson, said the party's rules were "not ambiguous nor open to serious doubt."

The barrister representing Corbyn, Martin Westgate QC, said in his written arguments that the NEC's understanding of the leadership rules was "plainly right" and Corbyn was a candidate "without needing to be nominated." He argued that the NEC's decision was "entitled to great respect" and "the court should not interfere with it."

Noting the unprecedented nature of a legal action that could have led to a democratically elected party leader being prevented from standing as a leadership candidate, Westgate argued that any change would be a "major, substantial shift." The judge had no reason to "disturb" the current rules unless they were

unreasonable, he stressed.

Foster, who runs an agency representing celebrities, Fostermeo, is one of the party's biggest individual donors. He claimed, absurdly, that his legal challenge was "not about politics." But he is a steadfast opponent of Corbyn.

Foster was central to the Blairites' claims that Labour under Corbyn had become rabidly anti-Semitic. An inquiry, to which Corbyn himself agreed, later disproved these claims. Just weeks after Corbyn became leader, Foster had stood at the back of a Labour Party conference fringe meeting, held by the Labour Friends of Israel, which Corbyn was addressing, and heckled, "Say the word Israel, say the word Israel!"

Foster has form regarding the intimidation of his opponents. While standing earlier in 2015 as a Labour candidate for the seat of Camborne and Redruth, one of his opponents, Cornish nationalist Loveday Jenkin, alleged that he called her a "c\*\*t" at a public hustings and threatened, "If you pick on me again I will destroy you." Jenkin said this was in response to the fact that she had informed the hustings that Foster lived in a £1.5 million home.

Foster has donated £261,000 to Labour since 2010, but has refused to donate centrally to the party since Corbyn's election. Instead, he has funded individual candidates, including those who were Corbyn's opponents in the 2015 leadership contest. Foster made a £10,000 donation to Liz Kendall, the arch-Blairite contender, alongside a £10,000 interest-free loan. Kendall, who received at least £75,000 from business, won just 4.5 percent of the vote from Labour members and supporters. Andy Burnham, another candidate, received just under £160,000 from business to fund his Labour leadership campaign, including a donation from Fostermeo.

The High Court ruling is the third blow to the Blairites' attempt to oust Corbyn in as many days. Last week Labour MP Seema Malhotra complained, in a letter to Parliamentary Speaker John Bercow, that aides to Corbyn and Shadow Chancellor John McDonnell had gained "unauthorised entry" to her office. She claimed this represented a breach of MP's parliamentary privilege.

On Tuesday, Bercow wrote to Malhotra informing her that this was not the case. "There is nothing in your letter or in the information subsequently elicited by the

deputy Sergeant at Arms which would justify regarding these events as a possible breach," the Speaker declared.

In the last weeks, the coup plotters and their media backers have repeatedly alleged, without providing any evidence, that Corbyn's supporters have been responsible for anti-Semitic statements against Labour MPs and have also threatened to rape and kill MPs.

On Wednesday, it emerged that a man who admitted sending anti-Semitic abuse and death threats to Labour MP Luciana Berger was not a supporter of Jeremy Corbyn, but a mentally disturbed man with fascist sympathies.

Just before the High Court issued its ruling, Corbyn's challenger for leadership, Owen Smith, declared that Corbyn should be allowed to stand on the ballot automatically. Smith, one of more than 60 MPs who resigned from Corbyn's shadow cabinet and supported a vote of no confidence in him, precipitating the leadership contest, was attempting to distance himself from a move that the vast bulk of Labour members and supporters view as integral to a Blairite coup plot.

On Monday, it was revealed that Labour is to be legally challenged over its decision to bar people signed up as party members after January 12 from voting in the leadership election. Solicitors Harrison Grant said proceedings have been issued against the Labour Party "on behalf of a number of new members who have been denied the opportunity to vote in the forthcoming leadership election."



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