



Our ref: MP637090

Richard Burden MP
House of Commons
London
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4 May 2016

Dear Richard,

Thank you for your letter of 24 March regarding the Westminster Hall debate on Local Government and Ethical Procurement held on 15 March. I will restate the answers to each of your questions in turn.

Given the significant and reasonable public concern of racism and anti-Semitism in the Labour Party, which I share, I hope that once you have read these full and clear answers you will now support our position of preventing these divisive town hall boycotts from fuelling anti-Semitism, dividing our communities and undermining our national security.

1. Were civil servants consulted at all before the press release was issued at Conservative Conference last October?

No Civil Servants were directly involved in the drafting of the Conservative Party press release. But I can confirm that there had been more general advice and discussions about the issue beforehand, within the usual constraints of Civil Service propriety.

2. Is there anything in this public procurement notice or that is intended by the Government that in any way changes [the position that the UK does not consider the Occupied Palestinian Territories to be part of Israel]?

No. This is new guidance on existing policy that has been in place for many years under successive governments. But it is not about procuring specifically from any country or region, and it is not an Israel-specific policy, nor is it focussed on the Israeli settlements. It is general guidance about procurement principles.

However, I can confirm that the UK Government's clear position on Israeli settlements is unchanged. The West Bank, including East Jerusalem, are territories which have been occupied by Israel since 1967. Settlements are illegal under international law, constitute an obstacle to peace and threaten to make a two-state solution to the Israeli-Palestinian conflict impossible.

3. Does the February 2016 public procurement note in any way change or add to [the advice that human rights related matters are reflected appropriately when purchasing goods, works and services]?

Public authorities can and do take account of the risks of doing business with particular suppliers during procurement exercises, and may reject a supplier's application where

certain exclusion grounds are met. In fact, the updated version of the procurement rules (the Public Contracts Regulations 2015) provides even more flexibility in this respect than the previous rules regime that was in place when the national action plan on the UN guiding principles was published in 2013. The new rules expressly permit authorities to exclude suppliers that have violated applicable obligations in the fields of national, EU and international environmental, social and labour laws. There are also various other exclusion grounds, including the one you mention in respect of grave professional misconduct. But these decisions have to be made case by case in compliance with the public procurement rules, and must not be discriminatory, as a blanket ban (ie a boycott) would be.

4. Does the Government consider that a breach of 4th Geneva Convention as a breach of human rights? Would PPN restrict public institution from resolving not to deal with a company that was involved with aiding and abetting breaches of 4th Geneva Convention?

As I have set out in the response to question 3, decisions on the suitability of particular suppliers need to be taken on a case-by-case basis, taking into account the particular facts and circumstances in relation to the procurement, and taking legal advice where necessary. There are flexibilities to enable individual authorities to exclude suppliers that are corrupt, guilty of misconduct, in breach of various international laws and so on, clearly set out in the rules. The Procurement Policy Note (PPN) does not limit or otherwise alter those flexibilities.

5. Pension fund trustees are already covered by a fiduciary duty, but will the changes being introduced in any way fetter the judgments that they make in line with that fiduciary duty in relation to, say, not investing in fossil fuels, tobacco or the arms trade?

6. Will you outline what plans the Government has for parliamentary scrutiny of these changes to pension fund guidance? Specifically, will you commit to consulting on any draft guidance... in respect of local government pension scheme investments before it is published?

Policy and guidance on local government pension scheme investments are handled by the Department for Communities and Local Government (DCLG). Between 25 November 2015 and 19 February 2016, DCLG conducted a public consultation on proposals to revoke and replace the regulations that currently govern the management and investment of funds in the local government pensions scheme in England and Wales.

The consultation proposals would if introduced, increase the discretion and flexibility of administering authorities in the Scheme when making decisions about allocating assets. These proposals support an increase in localism, with upgraded local discretion on the way that asset allocation decisions are taken, rather than a restriction as some people seemed to fear.

I hope this provides the clarity that you are seeking, and I look forward to your reply.

Yours sincerely



THE RT HON MATTHEW HANCOCK MP