Dear [Council leader, CEO, Finance Director or other senior officer responsible for public procurement]

**Re: Ethical Procurement and Israeli Settlements in Occupied Palestinian Territories**

We are writing to you as you have overarching responsibility for all procurement decisions made by [***name of local authority***]. We are asking you to adopt a human rights-compliant procurement policy that excludes from tendering processes companies that conduct business with Israel’s illegal settlements in the Occupied Palestinian Territories (OPT).

As you will be aware, the current legal framework governing public procurement*,* [*the Public Contracts Regulations (PCRs) 2015*](https://www.legislation.gov.uk/uksi/2015/102/regulation/57/made)*,* prescribe the reasons businesses may be excluded from bidding:

“Regulation 57(1) sets out mandatory grounds – e.g. corruption, fraud, bribery. Regulation 57(8) sets out the discretionary grounds – e.g. grave professional misconduct, distortion of competition.

We have asked a human rights lawyer, Stephen Cragg QC (Doughty St Chambers), and a procurement lawyer, Azeem Suterwalla (Monckton Chambers), to provide us with a legal opinion on whether the discretionary ground of ‘**grave professional misconduct**’ (GPM) could be used to exclude a tenderer that conducts business with Israeli settlements in OPT.

I attach their **advice** which asserts that there is a strong body of opinion and law which concludes that business dealings in the settlements can and, in many cases, inevitably do, contribute to ongoing breaches of human rights law and international humanitarian law:

“*In such a situation where the law is clear and the guidance to businesses so strident as to how they conduct themselves in the settlements, it seems to us that it is appropriate for local authorities and other public authorities to consider whether lack of compliance with the Guiding Principles and other advice provided by UN bodies set out above does indeed amount to GPM in the context of the PCR 2015.”*

They note that the Scottish Government believes that breaches of human rights can amount to Grave Professional Misconduct and point to [guidance](https://www.webarchive.org.uk/wayback/archive/20160111010720mp_/http%3A/www.gov.scot/Resource/0045/00458485.pdf) issued by the Scottish Procurement Office to public bodies in Scotland advising as to when it might be appropriate not to procure from companies that conduct business with Israeli settlements.

In light of this, we are asking you to consider taking the following steps:

1. Revise your procurement policy to scrutinise tenderers that conduct business in or with territories that are illegally occupied according to international law and consensus, with regard to ensuring that [***name of local authority***] does not procure from companies culpable of Grave Professional Misconduct.
2. Revise your procurement procedures and questionnaires to seek information from tenderers as to whether they are doing business in or with occupied territories. If so, to require them to provide details of the due diligence measures they have undertaken to avoid causing or contributing to human rights violations and to breaches of international humanitarian law (i.e. Geneva Conventions which cover military occupations).
3. Take account of any such information, including the failure to provide accurate information, in your procurement decisions.

We believe that these steps are reasonable and lawful and reflect developments in ethical procurement. We draw your attention to two documents that we have recently published. The first sets out why companies cannot do business with Israeli settlements while respecting human rights. The second sets out why UK company **JCB** is culpable for allowing its products to be used for the demolition of Palestinian homes in the Occupied Palestinian Territories and the expansion of Israel’s illegal settlements:

[***https://www.amnesty.org.uk/resources/thinktwice***](https://www.amnesty.org.uk/resources/thinktwice)

[***www.amnesty.org.uk/jcb***](http://www.amnesty.org.uk/jcb)

We thank you in advance for giving this your attention and look forward to your reply.

Yours sincerely,