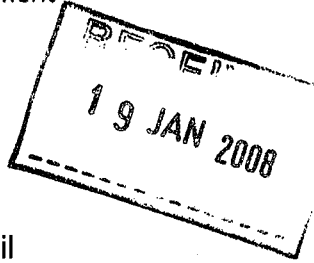




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14 January 2009

**The Mugabe Regime in Zimbabwe**

Thank you for your letter of 8 December to the Rt Hon Hazel Blears MP, regarding a debate by the Council on 24 July on the matter of doing business with Zimbabwe. I am replying as the Minister responsible for Local Government. You say that the Council approved a resolution to, amongst other things, write an open letter to the Prime Minister and Secretary of State for Communities and Local Government requesting enablement through statutory instrument to permit a preference for doing business with companies that have no involvement with the Mugabe regime in Zimbabwe.

I have also seen your letter to the Prime Minister, who has asked me to respond on his behalf. You will appreciate that the Department cannot provide legal advice but the following comments may be of some help.

My officials have discussed your concerns with officials at the Foreign Office, Department for International Development, Office of Government Commerce and Business, Enterprise and Regulatory Reform. As you will be aware, there are already EU sanctions in place for Zimbabwe. These include (subject to specific exemptions):

- A ban on arms and related materiel, as well as equipment which might be used for internal repression;
- The prohibition of technical and financial assistance related to arms, related materiel, or equipment which might be used for internal repression;
- Travel bans and/or asset freezing in respect of a list of individuals or entities (the practical effect of this is that no local authority or other legal person may do business with an individual or company listed as subject to the assets freeze).

These sanctions are specifically targeted to impair Mugabe and his supporters. We are not in favour of blanket trade sanctions against Zimbabwe as we believe that they would not be in the interests of ordinary Zimbabweans, who are already living in conditions of extreme deprivation. Whilst the UK cannot take unilateral action on trade sanctions, as these must work in concert with the EU, we do believe that this is an ethical trading issue and that it is up to EU and UK companies individually to take steps to ensure that they are not doing business with enterprises that support Robert Mugabe and his regime.

You have asked the Secretary of State to consider your request to provide a means for the Council to express its grave concerns about the Mugabe regime through positive action. Under local government law, section 17 of the *Local Government Act 1988* ("the 1988 Act") prevents authorities from introducing political, or irrelevant, considerations into the procurement process. It achieves this by defining certain matters as 'non-commercial' and prohibiting authorities from having regard to these matters in the contractual process. The Government has moved to relax certain matters as being non-commercial, in particular the workforce matters aspects in the 1988 Act. This was achieved by virtue of an order made under section 19 of the *Local Government Act 1999*.

The following matters in the 1988 Act are still to be regarded as non-commercial as regards the public supply or works contract of a public authority and seem relevant to your request:

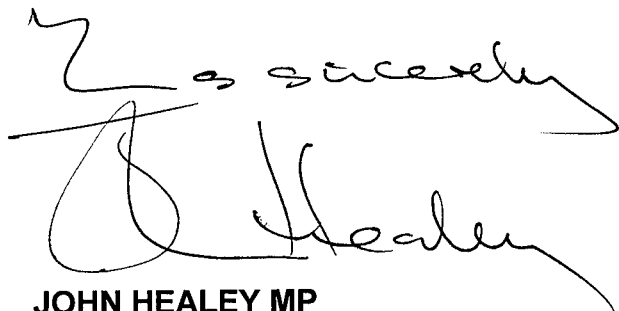
- Any involvement of the business activities or interests of contractors with irrelevant fields of Government policy (and Government policy falls within "irrelevant fields" if it concerns matters of defence or foreign or Commonwealth policy)
- The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests, of contractors
- Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners of employees

On the face of it, the restrictions in the 1988 Act could be seen to prevent a local authority from considering the activities and interests of businesses in Zimbabwe as part of their contracting procedures. I have also seen the Opinion that your Council received from Timothy Straker Q.C. on this matter and also relating to the discharge of Woking's functions.

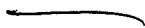
Existing Government policy to achieve value for money means that the purchaser should look at the best offer taking into account price and quality. Public authorities should be aware of their obligation under the EU Procurement rules and the wider EC Treaty which would prohibit discrimination on grounds of nationality (with regard to bids from EU countries), and the requirements of the WTO Government Procurement Agreement ("GPA") which extends the same rights provided under the EU Procurement rules to companies based in signatory countries. Zimbabwe is not a signatory to the GPA but any proposed sanctions could impact on another country that is a signatory to the Agreement. Our view is that the matters which remain in place in the 1988 Act are consistent with the Government's EC Treaty obligations and EU procurement law.

You may have seen both the Prime Minister's and the Foreign Secretary's recent comments in relation to the situation in Zimbabwe. In order to resolve Zimbabwe's problems, the political crisis must be solved and a democratic government with a commitment to sensible social and economic ideas, as well as common standards of human decency, must be formed.

I can assure you that the UK Government is actively urging the international community and African states to tackle this situation as a matter of the utmost urgency.

A handwritten signature in black ink, appearing to read 'John Healey', written in a cursive style. The signature is positioned above the printed name 'JOHN HEALEY MP'.

**JOHN HEALEY MP**

A short, horizontal black line drawn below the printed name.