Thank you for the opportunity to respond to the Scottish Government's (SG) response to petition PE1803 and to provide new information. Since submitting the petition, there has been a number of developments relevant to the issue.

On 28 January, US President Donald Trump and Israeli Prime Minister Benjamin Netanyahu announced the so called 'Trump peace plan' ("Peace to Prosperity: A Vision to Improve the Lives of the Palestinian and Israeli People") which was rejected by all representatives of Palestinian people.

On 12th February, the UN released a database of 112 companies that are involved in a defined 'list of activities that raised particular human rights concerns' related to settlements in the Occupied Palestinian Territory.

On April 28, the UK Supreme Court ruled against the UK Government and in support of Palestine Solidarity Campaign and others, protecting the right to undertake BDS campaigns in the UK.

On June 11, the European Court of Human Rights (ECHR) ruled that the conviction in France of BDS activists was a breach of their freedom of expression by criminalising BDS.

On June 24, Israel's Prime Minister Benjamin Netanyahu announced plans to annex significant parts of the occupied Palestinian Territory in the West Bank.

On June 30, the Israeli Supreme Court heard the final appeal against the eviction of the Sumarin family by the JNF in East Jerusalem, in the West Bank but illegally annexed by Israel in 1967 (the eviction has been subsequently stayed in order to consider a further appeal).

On August 3, two BDS activists were acquitted in German Court. (A third was convicted of a crime unrelated to BDS which is subject to appeal).

The implications of these recent developments, not least for the SG, are significant:

Since the SG 'strongly discourages trade and investment from illegal settlements', the publication by the UN of a database of 112 companies involved in activities with human rights concerns, suggests that the Government’s strong discouragement should amount to an effective boycott of these companies, and similar advice provided to public bodies.

The SG also believes ‘that engagement with the Israeli Government provides us with an opportunity to call for a peace initiative respecting the international parameters for a two-state solution, and to put forward our concerns in the strongest possible terms’.

The Trump-Netanyahu ‘peace plan’ and the West Bank annexation announcement demonstrate that the Israeli government has no interest in a peace initiative
respecting the international parameters of a two-state solution (not least of which is equal participation from the Palestinian people), nor of abiding by international law. Israel makes no distinction between territory under its own jurisdiction, and illegally occupied and annexed territory. The legal case of the Sumarin family under threat of eviction by the JNF under Israeli law illustrates the fate of Palestinians in occupied territory that has been annexed by Israel.

Moreover, by endorsing the IHRA working definition of antisemitism (which, as Israeli Minister Gilad Irdan has revealed, is deployed by the Israeli government and pro-Israel lobby organisations to, I believe, attack the BDS campaign) the SG is undermining its own opportunity to put forward concerns in the strongest possible terms. It is difficult to see any form of engagement with the Israeli Government by the SG which will raise these concerns more effectively than an endorsement of BDS, which is aimed at delegitimising such unilateral initiatives in breach of international law. The SG could do more to ensure that Scottish public institutions, organisations and individuals are free to support BDS without fear of intimidation or prosecution.

The SG’s obligation with regard to Israel’s violations of Palestinian rights were clearly stated in the International Court of Justice advisory opinion on the Separation Wall and overview, which are referred to in the petition. A letter by 92 international legal experts on the 10th anniversary of the ICJ opinion makes clear that such obligations on States also applies to other public and private bodies:

“Primary responsibility to promote and protect human rights, and to ensure respect for international law and human rights by nonstate actors, remains with States. However, legal development over the last years has stressed the liability of corporations, parastatal institutions and financial actors.”

It is clear that there is a strong legal case for the SG and Scottish public bodies to respond to violations of Palestinian human rights by Israel. It is also clear that BDS is a legitimate way for public bodies to deliver their responsibilities under international law. The SG has made clear that it does not wish to mandate how Scottish public institutions, organisations or individuals approach this issue. Given recent legal and political developments, it would be appropriate for the SG to support the petition, defend the right to BDS, and indeed to issue more persuasive guidance to encourage Scottish public bodies to fulfil their international legal obligations.