



Statement on Protocols and Principles

Purpose of the Statement

1. All public inquiries publish documents explaining how they will go about their work. The Eljamel Inquiry will describe such documents as 'protocols'. These protocols may bear certain similarities to documents of a similar nature published by other public inquiries established under the Inquiries Act 2005 but will be tailored to suit the Eljamel Inquiry and the fulfilment of its particular Terms of Reference.
2. The purpose of this statement is to explain how the Inquiry intends to go about using protocols to set out for those with an interest in the Inquiry how it will conduct its work and to set out the core principles which will guide the work of the Inquiry.

Statutory background

3. The Chair of the Inquiry has a wide discretion under section 17 of the Inquiries Act 2005 to determine the procedure which the Inquiry will follow. Section 17 provides as follows:

"Evidence and procedure

- (1) Subject to any provision of this Act or of rules under section 41, the procedure and conduct of an inquiry are to be such as the chairman of the inquiry may direct.

- (2) In particular, the chairman may take evidence on oath, and for that purpose may administer oaths.
- (3) In making any decision as to the procedure or conduct of an inquiry, the chairman must act with fairness and with regard also to the need to avoid any unnecessary cost (whether to public funds or to witnesses or others).”
4. Some matters regarding the procedure and conduct of the Inquiry are prescribed by the Inquiries Act 2005 and the Inquiries (Scotland) Rules 2007, and others are matters which the Chair has the power to determine himself. In doing so, he must act in accordance with the provisions of section 17.
5. In addition, the Chair requires to have regard to the obligations under section 18 of the Act relating to public access to the work of the Inquiry. Section 18 provides as follows:

“Public access to inquiry proceedings and information

- (1) Subject to any restrictions imposed by a notice or order under section 19, the chairman must take such steps as he considers reasonable to secure that members of the public (including reporters) are able—
- (a) to attend the inquiry or to see and hear a simultaneous transmission of proceedings at the inquiry;
- (b) to obtain or to view a record of evidence and documents given, produced or provided to the inquiry or inquiry panel.”

Publication of protocols

6. In order to promote public access to, interest in and understanding of the work of the Inquiry, the Chair will publish protocols which will set out information relevant to the procedures to be adopted by the Inquiry in order to fulfil its Terms of Reference.
7. Some protocols will be published shortly after the Inquiry is set up under the Inquiries Act 2005. Others will be issued at times during the progress of the Inquiry which are appropriate to particular milestones or events in the Inquiry's work. The Inquiry will endeavour to publish protocols at times which provide adequate notice for those with an interest in the Inquiry to understand its direction and plan for their observation of and/ or participation in the Inquiry's work.
8. Protocols will be published online on the Inquiry's website at www.eljamelinquiry.scot in the Protocols section.
9. The Chair may deem it appropriate to change or update the contents of the Inquiry's protocols, in the event that it becomes apparent to him that the procedure of the Inquiry ought to be adapted in order to promote the fulfilment of its Terms of Reference in the best way possible. They should not be regarded as being unchangeable but aim to provide an appropriate degree of certainty and transparency for those with an interest in the Inquiry's work.
10. The Inquiry's current intention is that it will, at appropriate times, issue protocols relating to the following matters:
 - a) Core Participant Protocol;
 - b) Legal Expenses Protocol;
 - c) Protocol on the Production, Handling and Retention of Documents;
 - d) Protocol on Disclosure, Publication, Restriction and Anonymity;
 - e) Restriction Order Application Protocol;
 - f) Protocol on Approach to Evidence and Written Statements;
 - g) Expert Evidence Protocol;
 - h) Public Hearings Protocol;

- i) Witness expenses Protocol;
- j) Warning Letters Protocol; and
- k) Closing Statements Protocol.

11. The Inquiry will also issue documents which should be read alongside these protocols, such as restriction orders. These will also be available on the Inquiry's website.

12. Members of the Inquiry team are available to explain the Inquiry's protocols and how they work.

The principles of the Inquiry

13. Each public inquiry comes into existence in different ways, has different Terms of Reference and objectives. Those with an interest in the work of each public inquiry come from different backgrounds and have different goals and priorities in their engagement with an inquiry.

14. The Chair of the Eljamel Inquiry and his Inquiry team intend to conduct their important work on the basis of the following key principles:

(a) The Inquiry recognises that for many former patients and their families the experiences which form the subject-matter of the Inquiry and the journey to the Inquiry coming into being have been traumatic. The consequences of trauma were clearly evident at the public consultation events which the Inquiry held on its Terms of Reference as well as in many of the written responses to it which the Inquiry considered. The Inquiry is committed to conducting its work in a way which is **trauma-informed**.

(b) The Inquiry's work will be conducted in a way which is **open-minded**. The direction the Inquiry will take and the conclusions which it will reach will be based on where the evidence we find leads us.

- (c) **Independence.** The Inquiry is independent of any individual or body. It seeks to engage with individuals and organisations with whom it will come into contact with courtesy and respect. It will, however, conduct its work and the Chair will make decisions in an independent way. The Inquiry and the Chair will use what powers are available to protect that independence as a key cornerstone of the Inquiry's ability to get to the truth and to repay the public trust which has been placed in it and him.
- (d) **Listening.** Part of the remit of the Inquiry involves looking at previous investigations into the treatment and care provided to the former patients of Mr Eljamel which many feel were inadequate. Those who have been affected by his work have expressed the view that their voices have not been listened to. The Inquiry will listen to their voices. It will not pay lip service to what they have to say but will pay attention to it, reflect on it and seek to understand it.
- (e) **Co-operation.** Ultimately, it is the Chair of the Inquiry who is responsible, with the assistance of his team, for the investigation of the matters which fall within the Terms of Reference, and the delivery of a report or reports on them. However, those who will become engaged in the work of the Inquiry all have an interest in finding out what happened, what went wrong, who was responsible and why.
- (f) **Clarity.** The Inquiry operates in private but is publicly accountable. In order to promote participation and co-operation, the Inquiry will endeavour to be clear with those involved and engaged in its work, whether core participants, material providers or other interested individuals or organisations, about what it is doing, why it is doing it and what it has found. The Inquiry will require to rely on others to assist with the achievement of its objectives. The Inquiry will endeavour to be clear with those with whom it deals as to what it requires from them, when and why.
- (g) **Thoroughness.** The Inquiry understands that many have campaigned and worked for many years to have the Inquiry set up. The Inquiry will endeavour to be thorough and discharge its Terms of Reference in a way which gets to the answers.

15. The Chair of the Inquiry and the Inquiry team will require to balance these principles against each other at times and against the requirements imposed upon the Inquiry by its statutory framework. They will endeavour to do so in a way which is fair, efficient and in the public interest.

16. The protocols which will be issued, setting out the procedures which the Inquiry intends to adopt will reflect these principles, as will the way in which the Inquiry team conducts its work.

Issued under the authority of the Chair on 3 April 2025.