



## **Evidential section 1 – Outline of Scope**

### **Purpose of this document**

1. In accordance with the approach to the investigation of its [Terms of Reference](#) ("ToRs") set out in its [Public Hearings Protocol](#), the Inquiry intends to structure its investigation into 6 evidential sections. Its investigations and evidential hearings in will be distinct.
2. The broad outline of section 1 of the Inquiry's investigation is set out at paragraph 19(a) of the [Public Hearings Protocol](#).
3. This document sets out the provisional outline of the scope of the investigations and hearings which will form part of section 1. The outline is provisional and may require to be updated from time to time as the Inquiry's investigations progress.
4. The Inquiry will undertake investigations into the following areas in connection with section 1. The extent to which these areas will require to be canvassed and examined at the section 1 evidential hearings will be determined as the evidence uncovered in the Inquiry's investigations comes to light. A more detailed list of issues which will be covered in section 1 are to be found amongst the issues listed in the Inquiry's [List of Issues](#). The Inquiry's approach to planning for the section 1 evidential hearings will be as set out in its [Public Hearings Protocol](#)

## **Provisional outline of scope of section 1**

### **General**

5. Section 1 of the hearings will be an introductory section at which it is intended that evidence will be gathered and heard relating to a number of areas which are designed to provide evidential context to the hearings sections to follow. Subsequent evidential sections of the Inquiry's investigations will be designed to elicit more detailed evidence and facilitate and more detailed examination of the Inquiry's Terms of Reference.
6. Therefore, it should be understood by core participants and others that section 1 of the hearings will not be the last opportunity for matters of importance to the Inquiry's Terms of Reference to be canvassed with witnesses. Witnesses who provide evidence or are called to give oral evidence to the Inquiry may be asked to provide further evidence or give oral evidence again, in the event that the Inquiry team and the Chair consider it necessary for the Inquiry's investigations for them to be invited or required do so. Any returning witnesses will be called in the evidential section to which their evidence is most relevant, though the Inquiry is prepared to take a flexible approach, where circumstances and/ or the evidence dictate that that would be appropriate.
7. The Inquiry plans to undertake a more detailed examination of ToRs 1 and 14 in section 1, given their significance in establishing the context in which other ToRs will be examined in more detail in due course.
8. References to "the relevant period" mean the period from 1995 to 2015, unless the context requires otherwise.

### **Organisations and key individuals**

9. The structure and remits/ roles of the various key organisations which did or could have had a role in the oversight of aspects of the work of Mr Eljamel and his team or in the aftermath of issues coming to light about them, including but not limited to:

- (a) NHS Tayside;
- (b) The Scottish Executive/ Scottish Government;
- (c) Healthcare Improvement Scotland and its predecessor organisations;
- (d) NHS Education for Scotland and its predecessor organisations;
- (e) The University of Dundee;
- (f) The Royal College of Surgeons (Edinburgh);
- (g) The Royal College of Surgeons;
- (h) The General Medical Council;
- (i) The British Medical Association; and
- (j) The Health and Safety Executive.

10. The identity of key individuals within these organisations over the relevant period and subsequently where appropriate, the nature and ambit of their roles, as well as their broad involvement in issues relating to the practice of Mr Eljamel.

#### NHS Tayside

11. The organisation of the neurosurgical service provided by NHS Tayside over the relevant period, including key individuals, roles and responsibilities.

12. Key policies and practices within NHS Tayside, including how these evolved over the relevant period, relating to:

- (a) Broad systems of clinical governance, in place over the relevant period and how they evolved, including corporate governance, professional governance and whistleblowing (ToR 3);
- (b) Broad systems and rules about work patterns in NHS Tayside, working in private practice whilst employed by NHS Tayside (ToR 2 / 3) and about supervision/ training of junior colleagues (ToR 2);
- (c) Complaints and feedback systems within NHS Tayside, statistical evidence relating to the nature and timing of formal complaints about Mr Eljamel (ToRs 4 and 5);
- (d) Internal and external information sharing systems, candour, including with the GMC (ToRs 7 and 13); and
- (e) Rules relating to clinical supervision, suspension and dismissal (ToRs 8 to 10).

#### The work of Mr Eljamel

- 13. The broad trajectory of the career of Mr Eljamel, including his work in NHS Tayside between 1995 and 2014 and in the private sphere over that period.
- 14. The broad nature, conditions of his roles and commitments to his teaching and research commitments, including the nature and content of Mr Eljamel's publications (ToR 2).
- 15. Statistical evidence about the nature and spread of his work, including the nature and types of surgery which he undertook, both in the NHS and in the private sphere.
- 16. The broad systems for how his work was undertaken, including the broad roles of other members of his team and associated professional colleagues at NHS Tayside, how these evolved over time.
- 17. The broad timing, reasons for and conditions of his clinical supervision (ToR 8) and suspension (ToR 9).
- 18. The broad circumstances of his resignation from his role at NHS Tayside (ToR 10) and the removal of his name from the GMC medical register (ToR 11).

Term of Reference 1 (appointments)

19. The circumstances of Mr Eljamel's appointment to his role in NHS Tayside in 1995.
20. Other key appointments which he held in the relevant period, including his professional accreditations.
21. In connection with all of these appointments:
  - (a) The nature of the roles/ appointments, the extent of their responsibilities, management structures;
  - (b) How and by whom Mr Eljamel came to be given these appointments;
  - (c) Factors/ evidence which were or ought to have been taken into account in awarding him these appointments, including their appropriateness and accuracy; and
  - (d) The nature and adequacy of any induction which he received in connection with any of these roles.

Term of Reference 14 (NHS document management)

22. Document management systems within NHS Tayside, including in relation to the production, storage and retention and medical records and other administrative records relating to the professional practice of Mr Eljamel there, including how and why they changed over the relevant period.
23. The purpose(s) and robustness of such systems.
24. The impact of these systems on the availability of medical and other records for later investigations.

Term of Reference 12

25. Investigative responsibilities over the relevant period.

26. The broad ambit, aims and findings of the investigations to be looked at under Term of Reference 12, including:

- (a) Royal College of Surgeons report relating to Mr Eljamel commissioned by NHS Tayside dated 2013;
- (b) Interim report of NHS Tayside relating to Mr Eljamel dated October 2013;
- (c) Final report of NHS Tayside relating to Mr Eljamel dated 6 December 2013;
- (d) The NHS Tayside review of complainant cases relating to Mr Eljamel 2014/15;
- (e) The External Review by the Executive Medical Director of NHS Lothian to review the process and decision-making regarding the management of Mr Eljamel 2018/2019;
- (f) The Scottish Government Review of Unresolved and Outstanding Concerns regarding Mr Eljamel, Former Consultant Neurosurgeon at NHS Tayside 2022;
- (g) The NHS Tayside Executive Medical Director Response to Patient A on undertaking a detailed review of surgery carried out and matters arising in theatre 2023;
- (h) The NHS Tayside look back at operative cases during the period of Mr Eljamel's supervision (21 June 2013 to 10 December 2013) June 2023;
- (i) The NHS Tayside Executive medical director report relating to Mr Eljamel dated 25 August 2023; and
- (j) The NHS Tayside due diligence review of documentation held relating to Mr Eljamel dated 25 August 2023.

Independent expert evidence

27. The Inquiry intends to elicit independent expert evidence in section 1 relating to rules and systems relevant to key areas covered by the Terms of Reference, in order to provide important context to the factual evidence to be heard and examined later in

the Inquiry and help promote understanding of the issues which the Inquiry will address in its later evidential sections.

28. In particular, the intention is that the Inquiry will instruct and examine expert evidence in the following areas:

- (a) Neurosurgery – including background to types of surgery performed by Mr Eljamel, responsibilities of consultant neurosurgeons, issues raised about problems with surgery/ care (ToRs 4 and 5), management of surgical lists, workloads (ToR 2), training of junior staff (ToR 2);
- (b) Medical ethics – including peculiarities of surgery/ neurosurgery, consent issues, duties of candour (ToRs 7 and 13), pressures of private practice, (ToR 2), obligations relating to research/ roles etc (ToR 2), training of junior staff and associated obligations (ToR 2), clinical supervision and suspension (ToRs 8 and 9), duties when things go wrong, obligations with regard to notes/ records (ToR 14); and
- (c) Health administration – including the responsibilities of health boards or other health bodies with regard to appointments and induction/ training (ToR 1), management of workloads (ToR 2), clinical governance, separation between professional and corporate clinical governance (ToR 3), private hospital co-ordination (ToR 3), requirements relating to complaints and feedback systems (ToRs 4 and 5), investigative responsibilities (ToR 12), duties of reporting to other bodies (ToR 13), document management and associated obligations (ToR 14).

29. The Inquiry may publish a more detailed Protocol on Expert Evidence in due course.