

**IN THE ELJAMEL INQUIRY**

**BEFORE LORD WEIR**

**IN THE MATTER OF:**

**THE PUBLIC INQUIRY TO EXAMINE THE PROFESSIONAL PRACTICE OF MR ELJAMEL**

**SUBMISSIONS IN RESPONSE TO COUNSEL TO THE INQUIRY'S NOTE DATED 19 NOVEMBER 2025**

**ON BEHALF OF**

**CORE PARTICIPANTS WHO ARE EITHER FORMER PATIENTS OF MR ELJAMEL OR THEIR REPRESENTATIVES (hereinafter, "the Group")**

Introduction

1. On 19 November 2025, the Solicitor to the Inquiry circulated a Note from Counsel to the Inquiry which sought to provide an update on matters in advance of the Opening Submissions on 26 and 27 November 2025. Within the Note was an invitation to RLR of Core Participants to respond to matters raised therein. This submission is in response to that invitation.

NHS Tayside

2. Within the Note, an update is provided with regard to the support being afforded to past and present employees of NHS Tayside. A Note from NHS Tayside was circulated to RLRs of Core Participants on 21 November 2025 providing further information.
3. As a matter of generality, the Group are cautious of the approach suggested by NHS Tayside. NHS Tayside's clarification gives rise to concerns over conflict of interest and how such a conflict would be appropriately managed.
4. There is a degree of mistrust in the Board from members of the Group which cannot be overstated. There is unease over what influence, if any, the Board may exert on the former and current employees of the Board when responding to a Rule 8 request.
5. As noted in the written opening statement lodged on behalf of the Group, the Group consider the approach of NHS Tayside throughout Mr. Eljamel's tenure and since to be one of obfuscation. In the absence of further clarification, the Group are concerned over inappropriate influence which may hinder the Inquiry's task of establishing the truth. This risk simply adds

to the distress already caused to members within the Group who have been forced to campaign relentlessly for a public inquiry to be established. Accordingly, we would associate ourselves with para. 18 of Counsel to the Inquiry's Note which sought further clarification on how the approach suggested will be implemented in practice.

#### University of Dundee

6. The University of Dundee are Core Participants in the Inquiry. Accordingly, it is concerning that the University does not appear to be meaningfully engaged in the Inquiry's work. Mr. Eljamel had a prominent role within the University. As noted within our opening submissions, one member of the group who had contemporaneous professional experience at the University of Dundee described to us the "awe" in which Mr Eljamel was held at the university, the impression that he was "untouchable" and he highlighted concerns about Mr Eljamel's role in helping the University get research funding and his relationship with organisations promoting research on new or experimental techniques.
7. It is submitted that meaningful engagement from the University is necessary for the Inquiry to fulfil its remit. The Group would welcome an update in this respect as soon as possible.

#### Rule 8 requests and s.21 Notices

8. We are grateful to Counsel to the Inquiry for providing a note of the recipients of the Rule 8 requests. In addition to those listed therein, we would respectfully suggest that NHS Fife be included. Whilst the focus of the Inquiry is on NHS Tayside, as noted within our opening submission at para. 25, it is apparent from members of the Group that clinicians within NHS Fife would routinely refer and re-refer patients to Mr. Eljamel notwithstanding that they ought to have had reason to question the outcomes for patients under his care. It is important that this relationship be explored by the Inquiry. The relationship and interaction between NHS Fife and NHS Tayside falls within TOR 6. It could realistically be explored within section 1 and to do so is, in our submission, necessary for the Inquiry to fulfil its remit.

#### Priority cases

9. We note Counsel to the Inquiry has identified 50 priority cases which will be the focus of the section 2 hearings. We have had no input in the selection of which patients are to be included. As such, we would be grateful to receive notification of the priority cases as soon as possible so that we can provide the necessary support to any members of the Group that are to be included. The Group would also welcome clarification of the criteria used for selecting the Priority Cases.

10. Further, the RLRs of the Group are, respectfully, best placed to advise which particular patient experiences are most apt to address specific themes that the Inquiry would wish to explore. On that basis, we would also be grateful if Counsel to the Inquiry can advise whether representations would be permitted once the 50 priority cases are known to determine whether further cases ought to be included.

Expert witness instruction

11. We note Counsel to the Inquiry has proposed that experts be instructed to consider: (i) neurosurgery; (ii) medical ethics; and (iii) health administration in respect of section 1. In addition to the foregoing, we consider it might be beneficial to have the input of a neuroradiologist if not for Section 1 then for the ICRs.

Trauma-informed policy

12. We are grateful for the confirmation that the Inquiry is keen to explore and consult upon a trauma informed policy and how it would be implemented in its work. We can confirm that we would be ready and willing to consult on any proposals put forward by the Inquiry in this regard.

ICR

13. We are grateful for the update from Counsel to the Inquiry the progress being made with the ICR. We agree with Counsel to the Inquiry's description of the importance of the ICR to the work of the Inquiry. We do, however, retain concerns over how the ICR has been designed to operate and interact with the Inquiry.

14. Members of the Group have recently received correspondence from the ICR. The letter makes clear that the patient's medical records will not be sent to the patient to assist in the completion of their applicant statement. A patient completing the applicant statement requires to provide details of key meetings with Mr. Eljamel and/or members of his team (Q. 2). They are further asked to specify all key clinical personnel who were involved in their treatment. It is inherently unfair and unreasonable to expect patients to recall specific meetings many years ago in the absence of the records. If the patient would require sight of the records to assist, they will be required to recover them via a GDPR request.

15. This creates a number of difficulties. The expected timeframe for recovery in this scenario is one calendar month. There are, however, numerous examples where members of the Group

have routinely been required to wait considerably longer. It is unlikely that the patient can properly complete the applicant statement within the 4-week timescale requested by the ICR in this scenario. Further, if the patient recovers their own records, they cannot confirm if their bundle corresponds with the bundle provided to the independent neurosurgeon. They cannot identify which records provided to the neurosurgeon are inaccurate, missing, or potentially falsified. This is a considerable concern given the issues this Inquiry is to explore.

16. The Group would welcome clarification from both the Inquiry and the ICR over how such issues can be addressed to enable the applicant statements to be completed.
17. At para. 38 of their Note, Counsel to the Inquiry seeks comment on the process by which legal services are to be engaged by the Scottish Government for the benefit of the patients (including those within the Group) taking part of the ICR. The Chair and Counsel to the Inquiry are familiar with the issues that have arisen with respect to the legal support. Since the Preliminary Hearing on 10 September 2025, an agreement in principle had been reached for funding to be provided. This agreement in principle was reached on 30<sup>th</sup> October 2025. Since then, Levy & McRae Solicitors LLP have awaited a copy of the draft agreement from the Scottish Government for such funding to be provided. This has not been forthcoming, and no reason has been provided for the delay. Until such time that an agreement is in place, there is no legal support available to patients participating with the ICR. There are already concerns over the progress or lack thereof of the ICR. The absence of funding being available simply risks further delaying matters. We would welcome an update from the Scottish Government as to when such an agreement will be made available.
18. At para. 39 of Counsel to the Inquiry's Note, a request is made for an update on the internal resources and staffing to assist patients with their ICR applicant statement. To enable Levy & McRae Solicitors LLP to adequately plan and allocate resources, they need the Scottish Government, ICR and the Inquiry to work with them and, in particular, for:
  - a. For the Inquiry to share client medical records recovered with them so they can see what is being sent to neurosurgeons and share this with their clients.
  - b. A planned schedule for the sending of applicant statement requests so that this work can be staggered to ensure they can cope with demand.
  - c. A completed contract with the Scottish Government which provides clarity as to what is covered in the fixed fee.

The Group's RLRs sees these matters as necessary to ensure patient/patient representative satisfaction with the process and, further, to ensure that a meaningful statement is prepared for submission to the neurosurgeon.

19. Notwithstanding the issue over funding above which has not yet been resolved, in light of the lack of progress being made over: (i) the issuing of applicant statements to patients (whether they are included in the 50 priority cases or not); and (ii) the requirement to obtain detailed input from an independent neurosurgeon, we are concerned that the timescales proposed by Counsel to the Inquiry may be unrealistic. Any further delay simply adds to the distress of the Group and should be avoided.

Joanna Cherry KC

Euan Scott

24 November 2025