

## **THE ELJAMEL INQUIRY**

### **Written Response on behalf of NHS Tayside**

#### **to Note by Counsel to the Inquiry for the Opening Statement Hearing of the Eljamel Inquiry on 26 and 27 November 2025**

### **Introduction**

1. NHS Tayside is grateful for the opportunity to respond in writing to Counsel to the Inquiry's Note for the Opening Statement Hearing of the Eljamel Inquiry on 26 and 27 November 2025 ('CTI's Note').
2. This Note addresses the following matters raised in Counsel to the Inquiry's Note:
  - Support being offered by NHS Tayside for participation in the Inquiry's work.
  - Psychological support for applicants of the Independent Clinical Review ('ICR').
  - The instruction of expert witnesses.

### **Support being offered by NHS Tayside for participation in the Inquiry's work**

3. At paragraph 17 of CTI's Note, the legal representatives of NHS Tayside are asked to confirm whether their position that they do not represent former or current employees of NHS Tayside should be taken to mean that they do not consider themselves to be recognised legal representatives of those individuals in terms of the Inquiries (Scotland) Rules 2007.
4. It can be confirmed that NHS Tayside's recognised legal representatives are not the recognised legal representatives of any individual current or former employee of NHS Tayside in terms of the Inquiries (Scotland) Rules 2007 ('the Rules'). NHS Tayside's legal representatives are instructed to act on behalf of the public body NHS Tayside, and are therefore the recognised legal representatives of NHS Tayside in terms of Rule 5 of the Rules. They are not the legal representatives of any individual in this Inquiry.
5. It is also noted that paragraph 18 of CTI's Note requests clarification from NHS Tayside's legal representatives as to, *'how it will be ensured that there is an appropriate*

*separation between the advice/ support being provided to individuals and the advice/ support being provided to the Board'. Having considered this further, it is now proposed that a Senior Solicitor within the CLO who is not part of NHS Tayside's legal team for this Inquiry should be involved in providing legal support to individual current and former employees.*

6. Therefore if no conflict of interest is identified by the CLO staff member who is the initial point of contact for legal support, the individual's Rule 8 request or Section 21 notice, along with their response, could be sent to that Senior Solicitor within the CLO who is not part of NHS Tayside's legal team for this Inquiry. That Senior Solicitor, instead of NHS Tayside's legal team, could then provide the individual with support.

### **Psychological support for applicants of the Independent Clinical Review ('ICR')**

7. Paragraph 36(c) of CTI's Note indicates that the ICR has secured agreement in principle for psychological support services for applicants of the ICR organised via the Association of Clinical Psychologists UK, which will be funded by the Scottish Government.
8. This does not accord with NHS Tayside's understanding of the position, which was set out in its written opening statement to the Inquiry at paragraph 26. NHS Tayside understands that the independent psychological support services for ICR applicants referred to in paragraph 36(c) of CTI's Note are being funded by NHS Tayside rather than the Scottish Government. If the Scottish Government is now funding these services, NHS Tayside has not been advised of this.

### **The instruction of expert witnesses**

9. NHS Tayside is grateful for the confirmation in paragraphs 43 and 44 of CTI's Note that it will be provided with the opportunity to comment on the Inquiry's draft letter of instruction to the expert witnesses who are likely to be giving evidence in section 1 hearings.
10. Confirmation is sought from the Inquiry as to if and when the identity of experts instructed by the Inquiry and by the ICR will be disclosed to Core Participants.

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21 November 2025