

THE ELJAMEL INQUIRY

Submission to the Inquiry on behalf of NHS Tayside

clarifying NHS Tayside's position regarding representation and support to current and former employees

At the Preliminary Hearing on 10 September 2025, Counsel to the Inquiry asked NHS Tayside to confirm its position in relation to the provision of representation and support to its current and former employees in connection to the Inquiry. This submission seeks to clarify and expand on the position as set out in NHS Tayside's written submissions dated 4 September 2025.

NHS Tayside wishes to fully support all current and former employees. Its intention has always been to provide as much support to individual employees as is considered acceptable by the Inquiry.

There is, however, an important distinction between representation and support. NHS Tayside's legal team for this Inquiry are instructed to act on behalf of the public body NHS Tayside. NHS Tayside's legal representatives are not the legal representatives of any individual in this Inquiry. This does not mean that NHS Tayside will not provide support to current and former employees of NHS Tayside.

NHS Tayside's written submissions of 4 September referred to the steps already taken to offer pastoral support in this Inquiry to its current and former employees. Practical support that could be provided to individual employees in connection with their evidence to the Inquiry was also suggested. Guidance was sought from the Inquiry as to the extent to which it would be appropriate to provide additional support to individual employees, particularly in relation to the provision of evidence by any such individuals to the Inquiry.

This guidance from the Inquiry was sought on the basis that it is fully appreciated that there is distrust of NHS Tayside by some of the former patients of Mr Eljamel. NHS Tayside wishes to ensure that its approach is consistent with the Inquiry's trauma-informed approach. It considers that, in the circumstances, issue may be taken with NHS Tayside and its legal team being closely involved in the provision of written and oral evidence by individuals currently or

formerly employed by it. NHS Tayside does not want to cause any further trauma or distress to the patient group. It is also important that individual current or former employees feel able to provide their best and fullest evidence. Those individuals may not feel comfortable with NHS Tayside's legal team being involved in the provision of their evidence to the Inquiry. For these reasons, NHS Tayside sought guidance from the Inquiry as to the extent to which it should support the provision of evidence by current and former employees.

At the Preliminary Hearing, Counsel to the Inquiry accepted that it would be appropriate for NHS Tayside to offer practical and pastoral support of the nature proposed in its written submissions of 4 September. Oral submissions presented on behalf of both the Inquiry and the patient group appeared to clarify that the expectation is for NHS Tayside to provide legal support to individual current and former employees in connection with the preparation of their evidence. NHS Tayside is grateful for this confirmation and can now take steps to put that support in place. NHS Tayside's suggested approach is as follows:

1. In accordance with paragraph 27 of the Inquiry's Protocol on Approach to Evidence and Witness Statements, Rule 8 requests will be sent by the Inquiry directly to individual recipients who are current or former employees of NHS Tayside. It is assumed that this approach will also apply to Section 21 notices. NHS Tayside will seek to assist the Inquiry in the provision of contact information for individuals.
2. In the event that an individual current or former employee of NHS Tayside receives a Rule 8 request or a Section 21 notice, it is suggested that such correspondence should clearly signpost the support available and offered by NHS Tayside, should the recipient wish to utilise it. It is suggested that a suitable arrangement could be for the Inquiry, upon sending any Rule 8 requests or Section 21 notices to recipients who are current or former employees of NHS Tayside, to include the email contact details of NHS Tayside's Programme Management Office (PMO) which is coordinating the provision of support to current and former employees, in relation to the Inquiry.
3. If contacted by an individual, the PMO can provide advice on the different support available. The practical and pastoral support outlined in the written submissions of 4 September will be available in addition to the legal support proposed below. This offer of support - legal, practical and pastoral - is optional to the witness. It is, of course, open to any individual not to avail themselves of the support offered. NHS Tayside

appreciates that there may be some circumstances where a current or former employee would prefer not to receive any support from NHS Tayside, or only wish to receive certain aspects of support, for example practical and /or pastoral support but not legal support, in connection with their evidence to the Inquiry.

4. If an individual recipient of the Rule 8 request or Section 21 notice wishes to receive legal support, they would be directed to a member of the legal staff at the Central Legal Office (CLO), who is not part of NHS Tayside's legal team for the Inquiry. This suggested approach would require the Inquiry to give permission to the individual recipient to share their Rule 8 request or Section 21 notice with the relevant CLO staff member, and thereafter NHS Tayside's legal representatives for the Inquiry if no conflict of interest is identified. The Inquiry is respectfully invited to grant such permission. It would not be necessary nor desirable for NHS Tayside itself to have sight of a Rule 8 request or Section 21 notice sent to an individual current or former employee, or indeed their response to that request.
5. The CLO staff member who is the initial point of contact for legal support could review the Rule 8 request or Section 21 notice and any response drafted by the individual to ensure that there is no obvious conflict of interest. Such a conflict may arise where an individual's position diverges from that of NHS Tayside. This may be clear from the initial draft response. In this situation it would not be appropriate for NHS Tayside's legal team to have any involvement in the preparation of the witness's evidence, or to have sight of the Rule 8 request or Section 21 notice, or the draft response provided by the individual current or former employee. If there is a conflict of interest, the individual would be signposted to alternative appropriate sources of support and, if necessary, to consider seeking independent legal representation.
6. If no such conflict of interest is identified, the individual's Rule 8 request or Section 21 notice, along with their response, could be sent to the legal representatives of NHS Tayside. At this stage, NHS Tayside's legal representatives could review and discuss with the individual their response before it is submitted to the Inquiry. Notwithstanding this support, any response submitted to the Inquiry would ultimately be the sworn evidence of that individual witness. Pastoral support could also be offered to any such witness attending to give oral evidence to the Inquiry.

7. A conflict of interest may be clear from the outset, but there may also be situations where any such conflict is not immediately apparent. It may also, in certain circumstances, be in the best interests of individuals to seek their own legal representation. It is envisaged that this will not be necessary in most cases, but such a situation could nevertheless arise. If a conflict of interest becomes apparent at any time, even after NHS Tayside's legal team have been involved, the individual would be signposted to alternative appropriate sources of support and, if necessary, to consider seeking legal representation.

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13 November 2025