

IN THE ELJAMEL PUBLIC INQUIRY

WRITTEN OPENING STATEMENT

FOR

THE SCOTTISH MINISTERS, Victoria Quay, Edinburgh, EH6 6QQ

CORE PARTICIPANT

INTRODUCTION

1. This is the Written Opening Statement for the Scottish Ministers. It is anticipated that an Oral Opening Statement will also be made at the Inquiry's hearings planned for 26 and 27 November 2025.
2. At the outset, the Scottish Ministers wish to thank the Chair for affording them Core Participant status. The Scottish Ministers welcome the opportunity to participate in this Inquiry and to assist the Inquiry in its work. The Scottish Ministers recognise that legitimate questions and concerns exist regarding their responsibility to secure the effective provision of national health services in Scotland and, in particular, oversight of NHS Tayside and the handling of complaints about Mr Eljamel. They welcome both the scrutiny and the opportunity for learning that this Inquiry will bring. The Scottish Ministers wish to assure the Inquiry of their commitment to learning lessons and to taking positive steps to improve the experience of all who receive treatment and care within the NHS. Patient safety is their priority.
3. The Scottish Ministers offer their sincere sympathy to all patients who have suffered at the hands of Mr Eljamel and wish to repeat the sentiments expressed by the Cabinet Secretary for Health and Social Care in his speech to Parliament on 29 February 2024 where he recorded his regret and sorrow that the search for answers by patients and

their families has taken so long. The Scottish Ministers are therefore, pleased that the Inquiry (and also the Independent Clinical Review) intends to adopt a patient-centred and trauma-informed approach in its investigations.

4. The Scottish Ministers are grateful for the guidance issued by the Inquiry on 29 October 2025 in respect of matters that could most usefully be addressed in Opening Statements. Having regard to that guidance, this Opening Statement will address the following matters: (i) an outline of the remit and responsibilities of the Scottish Ministers in relation to the NHS; (ii) a brief chronology of the Scottish Ministers' principal involvement in respect of the complaints made against Mr Eljamel; (iii) the Terms of Reference of particular relevance to the role of the Scottish Ministers and in respect of which they are likely to be well placed to assist the Inquiry in its work; and (iv) certain observations in respect of matters arising from Para. 13 of the guidance. For reasons that should become clear, many of the matters within the Para. 13 (particularly insofar as they deal with Mr Eljamel's clinical practice and the experience of patients) are matters upon which the Scottish Ministers can make no meaningful contribution at this time.

THE REMIT AND RESPONSIBILITIES OF THE SCOTTISH MINISTERS

5. The Scottish Ministers are established as the devolved government of Scotland in terms of s. 44 of the Scotland Act 1998. Health and, in particular, the operation and administration of the National Health Service in Scotland, are matters devolved to the Scottish Ministers.
6. In terms of s. 1 of the National Health Service (Scotland) Act 1978, the Scottish Ministers are subject to a statutory duty to promote in Scotland a comprehensive and integrated health service designed to secure: (a) the improvement in the physical and mental health of the people of Scotland; and (b) the prevention, diagnosis and treatment of illness and, for that purpose, to provide or secure the effective provision of services. S. 1A imposes an obligation on the Scottish Ministers to promote the

improvement of the physical and mental health of the people of Scotland. Whilst the 1978 Act provides for the establishment of individual geographical (and thematic) health boards for the delivery of health services to patients across Scotland, the Scottish Ministers retain ultimate responsibility for the NHS in Scotland. The Scottish Minister with portfolio responsibility for the NHS in Scotland is the Cabinet Secretary for Health and Social Care¹. During the period since it appears concerns were first reported by NHS Tayside to the Scottish Ministers regarding the practice of Mr Eljamel in December 2013, there have been six Cabinet Secretaries: (i) Alex Neil MSP (2012 to 2014); (ii) Shona Robison MSP (2014 to 2018); (iii) Jeane Freeman MSP (2018 to 2021); (iv) Humza Yousaf MSP (2021 to 2023); (v) Michael Matheson MSP (2023 to 2024); and (vi) Neil Gray MSP (2024 to date).

7. The Scottish Ministers hold ultimate responsibility for the 14 territorial and seven special health boards that collectively form “NHS Scotland”. Their responsibility is discharged through the Scottish Government’s Health and Social Care Directorates. Directors-General are responsible for families of directorates within the Scottish Government. The Director General, Health and Social Care is also the Chief Executive of NHS Scotland ² and has overall responsibility for the work of the Health and Social Care Directorates, with Directors and senior clinical advisers (such as the Chief Medical Officer and Chief Nursing Officer) taking responsibility for particular Directorates. The Director General delegates, through a Scheme of Delegation, financial responsibility for particular budgets, and expenditure incurred against these budgets, to individual Directors.

¹ Unless otherwise indicated, references in these submissions to “the Cabinet Secretary” are to the Cabinet Secretary for Health and Social Care (or the analogous previous office).

² Unless otherwise indicated, references hereafter in these submissions to “the Director General” are to the Director General for Health and Social Care (or analogous office). The Director General for Health and Social Care is responsible for maintaining a high standard of care for the people of Scotland and for providing support to Scotland’s health and social care professionals. The Director General Health and Social Care is a member of the Scottish Government’s Corporate Governance Board. As Chief Executive of NHS Scotland, she provides strategic direction to the NHS in Scotland, driving performance, efficiency and value for money; ensuring the delivery of sustainable, safe, effective and person-centered care. She has overall responsibility to ensure that a high standard of care for the people of Scotland is maintained and that appropriate support is provided to Scotland’s health and social care professionals.

8. The Health and Social Care Directorates that sit within the portfolio of the Director General and contribute to the delivery of policy for health and social care, as well as the administration of the NHS in Scotland, include (as at today's date):
 - I. The Directorate of the Chief Medical Officer
 - II. The Directorate of the Chief Nursing Officer
 - III. The Directorate of the Chief Operating Officer, NHS Scotland
 - IV. The Directorate for Health and Social Care Finance
 - V. The Directorate for Health Workforce
 - VI. The Directorate for Mental Health
 - VII. The Directorate for Primary Care
 - VIII. The Directorate for Population Health
 - IX. The Directorate for Social Care and National Care Service
9. The Scottish Cabinet is the Scottish Ministers' main decision-making body. It comprises the First Minister and all Cabinet Secretaries, all of whom are bound by the Scottish Ministerial Code³ and the doctrine of collective responsibility. The primary role of the Health and Social Care Directorates in relation to Cabinet is to provide advice to the Cabinet Secretary and to draft and advise on papers going to Cabinet in the Cabinet Secretary's name.
10. The Scottish Government's Health and Social Care Management Board is the main decision-making body of the Health and Social Care Directorates. The Board is accountable for the strategy and performance of the NHS and Health and Social Care Directorates, ensuring that resources are best used to respond to the priorities set by Ministers and deliver the best services possible for the people of Scotland. The Permanent Secretary holds the Director General to account – with the Board being used as the vehicle by which the Director General discharges their functions.

³ [Scottish Ministerial Code: 2025 Edition](#)

11. The Scottish Ministers are also assisted in relation to matters of medical policy and clinical standards by the Chief Medical Officer. The holders of the office during the relevant period have been: (i) Sir Harry Burns (2005 to 2014); (ii) Aileen Keel (2014 to 2015); (iii) Catherine Calderwood (2015 to 2020); and Professor Sir Gregor Smith (2020 to present day).

A BRIEF CHRONOLOGY OF THE SCOTTISH MINISTERS' INVOLVEMENT

12. On 7 September 2023, the then Cabinet Secretary, Michael Matheson MSP, announced an Independent Clinical Review into the clinical care provided to Mr Eljamel's patients and that a Public Inquiry would be held in respect of the actions of Mr Eljamel and the previous steps taken to investigate his conduct and clinical governance issues arising.

13. The Scottish Ministers anticipate that detailed chronologies, which set out the Scottish Ministers' and Scottish Government officials' engagement with the issues under investigation by this Inquiry, will be of assistance. They will be pleased to provide detailed chronologies and associated documentation under the Inquiry's direction, in due course. A high-level chronology of the Scottish Government's involvement is set out below:

- I. **19 December 2013** – The Scottish Government received formal notification from NHS Tayside that it had suspended Mr Eljamel from practice, following concerns raised by 55 separate patients. This followed a report provided by the Royal College of Surgeons to NHS Tayside, consequent to its Invited Review in September 2013.
- II. **24 April 2014** – The Scottish Government was informed that Mr Eljamel had indicated his intention to retire on 31 May 2014. He also resigned as a member of the General Medical Counsel (GMC) at the end of May 2014.
- III. **2014-2017** – The Scottish Government received substantial correspondence from a former patient of Mr Eljamel, Patient A, setting out concerns he had

raised with NHS Tayside, regarding the treatment and care he had received from Mr Eljamel.

IV. **1 December 2016** – The then Chief Medical Officer (Dr Catherine Calderwood) met with the General Medical Council to discuss the frustrations felt by former patients that Mr Eljamel had been able to voluntarily remove himself from the register prior to the conclusion of a fitness to practise investigation.

V. **1 September 2018** – The then Cabinet Secretary (Jeane Freeman MSP) wrote to all NHS Health Boards in Scotland seeking confirmation from each health board as to the steps they were taking, as a matter of clinical governance, to properly handle complaints regarding clinicians.

VI. **1 November 2018** – The then Cabinet Secretary (Jeane Freeman MSP) wrote to Health Boards setting out the requirement to share good practice to ensure that Boards learn from each other and an event was being set up to facilitate and progress this.

VII. **4 December 2018** – A meeting was held, attended by senior representatives of the territorial health boards and facilitated by Professor Craig White, then Divisional Clinical Lead, Directorate of Healthcare Quality and Improvement, (now Associate Director of the Directorate) to share good practice and take forward work on what would become the Openness and Learning Commission. The Directorate of Healthcare Quality and Improvement now sits with the Directorate of the Chief Operating Officer, NHS Scotland.

VIII. **18 December 2020** – The then Cabinet Secretary (Jeane Freeman MSP) met with Patient A and Patient B (another former patient of Mr Eljamel) to discuss their concerns regarding the treatment and care provided by Mr Eljamel, together with NHS Tayside's response to those concerns.

IX. **11 March 2021** – The Cabinet Secretary commissioned a Review of Unresolved and Outstanding Concerns regarding Mr Eljamel, to be led by Professor Craig

White. Clinical reviews of the treatment and care provided to Patient A and Patient B were also commissioned.

- X. **10 May 2022** – The Report on the Review of Unresolved and Outstanding Concerns was published. That included consideration of the views of the independent consultant neurosurgeons commissioned to review the care provided to Patient A and Patient B. It made a series of recommendations to NHS Tayside, including in respect of complaint-handling and measuring the effectiveness of actions taken following previous reviews. Certain recommendations were also made to NHS Scotland in respect of developing national guidelines for Consultant supervision and the National Neurosurgical Audit Programme.
- XI. **9 February 2023** – The then Cabinet Secretary (Humza Yousaf MSP) met with a number of MSPs to discuss their constituents' concerns regarding prior investigations into the actions of Mr Eljamel and the calls which had been made for a public inquiry.
- XII. **20 April 2023** – The then Cabinet Secretary (Michael Matheson MSP) directed that an independent commission, led by an independent legal expert, be established to review: (i) individual cases in which patients considered they had suffered at the hands of Mr Eljamel; and (ii) learning systems and governance within NHS Tayside.
- XIII. **31 August 2023** – NHS Tayside published its Due Diligence Review Report, identifying various failings in NHS Tayside's handling of the concerns regarding Mr Eljamel.
- XIV. **7 September 2023** – In light of the findings in the Due Diligence Review Report, the Scottish Government announced the establishment of this Public Inquiry and the Independent Clinical Review, replacements for the previously planned independent commission.

TERMS OF REFERENCE

14. At Para. 13(a) of the guidance, Core Participants are invited to identify those aspects of the Inquiry's Terms of Reference and List of Issues (as updated to October 2025) that are of particular importance to them, or that they consider merit particular or particularly detailed attention on the part of the Inquiry. Given the context set out above, it is anticipated that the Scottish Ministers can best assist the Inquiry in relation to issues arising in respect of the adequacy of the reviews and investigations carried out since Mr Eljamel's suspension in 2013. Whilst the Scottish Ministers are committed to assisting the Inquiry in any way they can, they are not currently aware of any information available to them relating to concerns regarding Mr Eljamel until advised of his suspension on 19 December 2013.

15. In particular, the Scottish Ministers consider that the Terms of Reference upon which they are most likely to be able to assist the Inquiry are:

TOR 6: *To investigate the role of any other bodies which played or could have played a role in the care provided by Mr Eljamel to his former NHS patients, including but not limited to... (c) the Scottish Executive/Government relating to its overall responsibility for the NHS in Scotland.*

TOR 12: *To examine all previous reviews or investigations undertaken (a) by, on behalf or on the instructions of NHS Tayside or (b) the Scottish Executive/Scottish Government into the professional activities of Mr Eljamel during the course of his employment with NHS Tayside and to consider the adequacy and timeliness of these reviews or investigations, including the adequacy of steps taken in light of the findings and recommendations of them, including but not limited to the following:... (f) the Scottish Government Review of Unresolved and Outstanding Concerns regarding Mr Eljamel, Former Consultant Neurosurgeon, at NHS Tayside 2022.*

16. Having regard to the List of Issues, the Scottish Ministers have a particular interest in respect of Issues 234-239 and 255-261 (which relate to Term of Reference 6), and 299-327 (which relate to Term of Reference 12). They also have an interest in Issue 75 (whether Mr Eljamel held an advisory role with the Scottish Government), 226 (NHS Tayside reporting obligations to the Scottish Government) and 228 (reports made by NHS Tayside to the Scottish Government).

17. In due course, it is anticipated that the Inquiry's attention in respect of the Scottish Ministers might reasonably be directed at two broad questions: (i) could, or should, the Scottish Ministers have identified issues in respect of Mr Eljamel prior to notification of his suspension being received on 19 December 2013; and (ii) whether the Scottish Ministers' response to the issues once raised was adequate and timely?

MATTERS ARISING FROM THE NOTE OF 29 OCTOBER 2025

18. The Scottish Ministers would intend, generally, to restrict its submissions in this Opening Statement (and in terms of the matters set out at para. 13 of the Note of 29 October 2025), to matters addressing those Terms of Reference. The observations below are preliminary. As the work of the Inquiry progresses, and with a view to assisting the Inquiry in its task, the Scottish Ministers may have further observations to make, either in respect of the matters set out below or other issues raised within the guidance.

Para. 13 (b) (ii) - The extent to which it is submitted that the Inquiry's remit should extend beyond Mr Eljamel's practice at Ninewells Hospital into other parts of the NHS, for example other hospitals in which he may have practised (eg Dundee Royal Infirmary) or NHS Fife.

19. Whilst it is ultimately a matter for the Chair to interpret the Terms of Reference, the Scottish Ministers query whether work carried out by Mr Eljamel for NHS Fife would

fall within the current Terms of Reference for the Inquiry. NHS Fife are not referenced in the Inquiry's Terms of Reference and are not a Core Participant to this Inquiry. Notwithstanding those comments, it would seem to be unproblematic for the Inquiry to consider the extent to which the workload within NHS Tayside had increased in consequence of taking on work from NHS Fife, as part of its investigations.

Para. 13 (b) (vii) - The extent to which there is a basis for the Inquiry to investigate complaints or concerns raised about Mr Eljamel's practice prior to 2012 and the nature of any such complaints or concerns (ToRs 4 and 5).

20. It would appear to the Scottish Ministers that the relevant Terms of Reference are sufficiently broad such as to allow consideration of pre-2012 complaints and Mr Eljamel's NHS practice prior to 2012.

Para. 13 (b) (x) - Aspects of the investigations listed under ToR 12 which core participants feel merit particular attention/ reasonable grounds upon which it is asserted that those investigations could or should have worked better.

21. The Scottish Ministers have no suggestions to make at this time. They are participating in order to learn lessons from this Inquiry. If, as matters develop, the Scottish Ministers identify aspects of the investigations which they consider merit particular attention, or grounds for asserting that an investigation could or should have worked better, they will share their suggestions with the Inquiry without delay.

Para. 13 (b) (xi) - Information about reports made to bodies mentioned in ToR 13 and reasonable assertions about what reports could or should have been made to them, when and why.

22. This is a matter upon which NHS Tayside may be in a better position to inform the Inquiry. The Inquiry may wish to investigate the duties and responsibilities of NHS Tayside in relation to reporting concerns to the Scottish Ministers and the extent to which NHS Tayside kept the Scottish Ministers fully informed as regards the developing concerns regarding Mr Eljamel's practice.

Para. 13 (c) - Additional issues or matters of greater detail which core participants consider should be investigated by the Inquiry and why, including why they are deemed to fall within the Inquiry's Terms of Reference.

23. Standing the comprehensive and thorough List of Issues prepared by the Inquiry, the Scottish Ministers have no further suggestions to make at this time. If, as matters develop, the Scottish Ministers identify further issues that they consider the Inquiry may wish to investigate in order to fulfil its Terms of Reference, they will share their suggestions with the Inquiry without delay.

Para. 13 (d) - Suggestions as to the identity of witnesses from whom core participants submit that the Inquiry should be taking written statements and/ or oral evidence, the role which such individuals are expected to be able to play and the areas which and why their involvement in those ways would be beneficial to the Inquiry's fulfilment of its Terms of Reference.

24. Having regard to the matters on which the Inquiry might best be assisted by the Scottish Ministers, it is anticipated that the Inquiry may wish to hear evidence from:

- I. **The various Cabinet Secretaries in office during the relevant period** – To speak to: (i) the dialogue between NHS Tayside and the Scottish Government; (ii) dialogue with other key stakeholders, including former patients; (iii) the decision to initiate the Review of Unresolved and Outstanding Concerns; (iv)

the decision to convene the Independent Clinical Review; and (v) the decision to announce this Public Inquiry.

- II. **The various Chief Medical Officers in office during the relevant period** – To speak to engagement with stakeholders regarding the clinical care provided by Mr Eljamel.
- III. **Professor Craig White, Associate Director of the Scottish Government's Healthcare Quality and Improvement Directorate** – To speak to his role in relation to the Review of Unresolved and Outstanding Concerns.
- IV. **Consultant Neurosurgeon X** – To speak to her case note review of the care of Patient B.
- V. **Consultant Neurosurgeon Y** – To speak to his case note review of the care of Patient A.
- VI. **The various Directors General of Health and Social Care during the relevant period⁴** - To speak to the corporate knowledge and responsibilities of the Scottish Ministers during the various periods subject to inquiry.
- VII. **The various Chief Operating Officers of the Health and Social Care Directorates during the relevant period⁵** - To speak to the corporate knowledge and responsibilities of the Scottish Ministers during the various periods subject to inquiry.

25. It may be that, as the Inquiry's investigations progress, additional former or current Scottish Government officials will be able to assist the Inquiry with the provision of corporate statements and/or individual witness evidence on particular points of

⁴ Paul Gray, Malcolm Wright, Caroline Lamb (to note Malcolm Wright held the position of Chief Executive in NHS Tayside from April to December 2018)

⁵ Harry Burns, John Connaghan, John Burns

interest. The Scottish Ministers will work collaboratively with the Inquiry to ensure that it has access to the most relevant witnesses to assist it in its important work.

Para. 13 (e) - Suggestions as to lines of investigation which core participants think should be undertaken by the Inquiry and why, beyond those already announced at the Inquiry's preliminary hearing.

26. Again, the Scottish Ministers have nothing to add at this time but will keep matters under review and inform the Inquiry should they identify further lines of inquiry they consider might assist the Inquiry in fulfilling its Terms of Reference.

Para. 13 (f) - Any key materials which Core Participants (CP) groups hold and/ or think should be obtained by the Inquiry and why, as well as any information about key documents thought to be missing which might otherwise have been of assistance.

27. The Scottish Ministers hold substantial documentation, particularly in relation to the commissioning of the Review of Unresolved Concerns, the Independent Clinical Review and this Public Inquiry. The Scottish Ministers agree with the proposals set out within the Note by Counsel to the Inquiry dated 10 September 2025, that: (i) disclosure should be made by reference to appropriate Rule 8 requests and, where appropriate, Section 21 Notices; and (ii) that Rule 8 requests be issued on an iterative basis, focusing on specific topics or issues. The Scottish Ministers respectfully request that as much notice as possible is given in respect of any Rule 8 requests. Steps are already being taken to ingather documentation that it is anticipated the Inquiry will wish to consider, however, given the large volumes of data held by the Scottish Ministers (and the nature of the platforms within which such data is stored), full review and disclosure will inevitably take some time.

Para. 13 (g) - Aspects of the Inquiry's Terms of Reference/ List of Issues/ sectional evidential plan to which core participant groups think they can contribute to the greatest extent and matters where their contribution will be of the greatest assistance to the Inquiry's work and why.

28. In light of the above, the Scottish Ministers anticipate their principal contributions to the Inquiry being in respect of Terms of Reference 6 and 12. In that context, the Scottish Ministers' main involvement is likely to arise in respect of the following sections of the Inquiry:

- I. **Section 1 – Setting the scene.** In particular, the Scottish Ministers can provide evidence setting out the roles and responsibilities of the Scottish Ministers, the Cabinet Secretary, the Chief Medical Officer, NHS Scotland and the Directorates for Health and Social Care, as well as the formal mechanisms in place for sharing of information between those various parts of government. They can also provide an overview of their involvement in the various reviews which fall within the remit of TOR 12.
- II. **Section 5 – Corporate clinical oversight, complaints, the role of the Scottish Ministers, investigations and organisational candour.** In particular, the Scottish Ministers can provide detailed evidence in respect of: (i) their role and responsibilities; and (ii) the investigations undertaken by or on behalf of the Scottish Ministers during the period from December 2013 onwards.
- III. **Section 6 – Lessons to be learned.** The Scottish Ministers anticipate that, as regards their role, there may be lessons to be learned in respect of: (i) oversight of Health Boards by Central Government and whether the level of oversight provided is adequate or requires to be increased; (ii) the extent and effectiveness of information-sharing between relevant agencies; (iii) whether the steps taken by the Scottish Ministers, as matters were reported to them,

were adequate; (iv) whether a Public Inquiry should have been convened earlier; (v) the extent to which recommendations of previous reviews have been enacted; and (vi) the extent to which such recommendations might protect against any repeat of the issues that gave rise to this Public Inquiry.

Para. 13 (j) - Recommendations which core participants submit should be in the Inquiry's thinking at this stage, including the identification of areas connected to the Inquiry's Terms of Reference which core participants consider would be most likely to benefit from the Inquiry's attention and possibly ultimately recommendations being made, based on the core participant group's particular experiences or area of particular interest.

29. Again, the Scottish Ministers have nothing to add at this time but will keep matters under review and inform the Inquiry should they identify areas they consider would benefit from the Inquiry's attention.

CONCLUSIONS

30. The Scottish Ministers are grateful for the opportunity to contribute to the Inquiry's work by making this Opening Statement. They reiterate their willingness to work collaboratively with the Inquiry and to assist the Inquiry in fulfilling its Terms of Reference.

Laura Thomson K.C.

David Blair, Advocate

18 November 2025