



Michael Marra MSP

Liz Smith CBE MSP

Willie Rennie MSP

**By email only**

18 March 2026

Dear Mr Marra, Ms Smith and Mr Rennie,

**Public Inquiry**

Thank you for your letter of 12 March 2026 in connection with the Inquiry's section 1 hearings and, in particular, the important matter of attendance at those hearings by former patients of Mr Eljamel, some of whom have contacted you about my proposed plans. I write to provide you with clarification about the Inquiry's position in light of the very legitimate anxiety which has been communicated to you by these constituents.

**Background**

For the sake of clarity, may I start by saying that the issue which occasioned my public statement about the need for remote attendance at the limited section 1 hearings which I have proposed did indeed arise from an issue of accessibility to the hearings suite (but not space available in it).

As you are aware, the Inquiry entered into an arrangement with the Scottish Ministers and, separately, the Scottish Covid-19 Inquiry ("SCI") to share the use of its hearing suite at Waverley Gate in Edinburgh. This is the hearing suite in which the Inquiry's preliminary and opening statements hearings took place in September and November 2025 respectively. The SCI and the Inquiry have access to the hearing suite by permission of the Scottish Ministers who are the tenants of it in terms of a lease between them and the owner of the building.

It was brought to my attention since the November hearings by representatives of the Scottish Government that a matter of safety had arisen in connection with the hearing suite. I have been advised (through my team) by representatives of the Scottish Ministers in their capacity

as tenants of the property that I should not bring members of the public into the hearing suite due to that safety issue. Neither I nor the Inquiry is a tenant or owner of the hearing suite. I am required to act on the basis of information provided to me by those upon whose permission we rely for its use, namely the Scottish Government. I am not in a position to access the full details of the nature of the safety issue which has arisen. I am informed that steps are being taken to resolve it as soon as possible but that it will not be resolved by the time of our section 1 hearings. To be clear, there is no option available to me to hold the section 1 hearings as had been planned and would have been my preference, with core participants, including patient core participants and other interested members of the public who wish to be there in attendance.

As you know, I have committed to conducting the Inquiry in a way which is collaborative, open and patient-centred. These principles and objectives remain of fundamental importance to our work.

In light of these unwelcome developments, I considered what steps I could reasonably take. In doing so, I required to try to weigh up many factors. These included the widely held anticipation that hearings would take place in April and May, the inevitable anxiety which would be occasioned to patients by both delay and a change in the plans, the work which has been involved in preparing for those hearings, the relatively historic subject-matter the Inquiry, and the need to make progress with our important work to find the answers we seek. I also required to take seriously the safety advice I had been given, which, as I understand it, would allow hearings to proceed with a minimum number of people in attendance, which I have construed, for our purposes, as meaning the Inquiry team, witnesses and their legal representatives. I communicated this proposed course to legal representatives of core participants on Friday 6<sup>th</sup> March 2026 with an explanation of the background and invited their comment on it. As you know, an explanation of the position was published on our website on Wednesday 11<sup>th</sup> March 2026.

### Outcome of the correspondence

I am grateful to you for relaying to me the response to my correspondence and public statement which have been communicated to you by some of your constituents. I share their justified frustration and fully appreciate why they are upset. I am highly dissatisfied with the situation that has arisen, outwith my control or the control of our core participants.

The possibility of an alternative venue has been raised. I set out below that that is not an option which is currently available, and why. The safety issues with the building have realistically left me with a choice between postponing the hearings until a time when core participants can attend as we had planned or holding them virtually. I am acutely aware that both options are far from ideal, and both have the potential to cause high levels of concern and distress. I proposed the latter as representing what I considered to be the less bad of the two options in these unwanted circumstances.

### Alternatives

Your letter raises the possibility of alternative venues in Edinburgh. While I am bound to consider that as a possibility going forward, it does not offer a practical short-term solution.

My team has looked into this as a possibility with the following result. A suitable venue must provide much more than a room for the hearings themselves. We must have sufficient supporting rooms to offer our emotional support service, provide an appropriate preparation room for witnesses, accommodate the considerable media interest and provide a space where recognised legal representatives can meet with core participants. Moreover, a key consideration for this Inquiry is being able to deliver a hearing that can be followed effectively remotely. I am keenly aware that the physical and psychological poor health of many of those with a strong interest in this Inquiry means that they will not be able to attend any of the hearings in person. This is why we have set up a space and made arrangements for the various technical aspects for transmitting the hearings and recording the proceedings to be facilitated. In my view, and in light of these difficult arrangements, moving to an alternative venue in the time available would be impossible. In addition, many of those patients who have attended our hearings on previous occasions have done so despite it causing them pain and difficulty. Many alternative venues simply do not have sufficient physical and digital accessibility for these important purposes. I have a duty to all those involved only to proceed with hearings that can be delivered to a sufficiently high quality and to be accessible to all with an interest. Within the very tight time constraints that exist, I have no confidence that this could be achieved at an alternative venue for the section 1 hearings.

Moreover, those who were involved in the recent Parliamentary investigation into the cost-effectiveness of public Inquiries will be aware of the difficulties associated with sourcing a new venue in a shortened timescale, given the need to rely on Scottish Government systems of procurement and to establish the necessary IT infrastructure, critical for the broadcasting of evidence from scratch. Indeed, that was one of the reasons which motivated the creation of the sharing arrangements with the SCI in the first place; that has hitherto worked well.

### Participation

Before drawing matters to a conclusion it may be helpful to make some further points about the section 1 hearings and participation more generally. I do so in order to address any concern, implicit in your letter, that there was a proactive decision to exclude patients from important aspects of the evidence.

As far as participation in the legal process is concerned, the principal means by which core participants can contribute to the hearings is by the submission of proposed questions for witnesses via their recognised legal representatives both in advance of the hearings and on the day of the witness giving evidence as per our Public Hearings Protocol. These opportunities to contribute will still be available to core participants in the proposed virtual hearings.

I have intimated to core participants a list of certain evidence which I intend would be included in the hearings which I am able to hold virtually in April/ May. Given the importance (which I recognise) in core participants and their recognised legal representatives being present to hear the oral evidence of witnesses, my team have compiled a list of witnesses for the April/ May slot which attempts to balance the need for what we anticipate may be more contentious evidence to be heard when core participants are present with the need to make progress generally and on certain pressing matters. Thus, the hearings planned for April/ May will be limited and will not be the end of the section 1 hearings. I intend to hold a second section 1 oral evidence session, hopefully before the end of the year.

It should be borne in mind that section 1 of our evidence plan is, and always has been, an introductory section of the evidence. Representatives of the bodies who have been called upon to contribute evidence to the section 1 investigations will be able to be recalled at a later date (predominantly in sections 4 and 5 of our evidential plan) at which time what we anticipate will be more contentious matters of detail will be able to be ventilated at public hearings. Thus, section 1 is an important part of our evidence gathering process but is far from a final opportunity for core participants to attend to hear the evidence of key individuals who will be called to provide oral testimony to the Inquiry.

In order to assist with the preparation for core participant contributions to the later section 1 hearings, we intend to disclose materials we have gathered which relate to them in the coming months, considerably in advance of the hearings themselves, to allow consideration of them by core participants and their recognised legal representatives before the continued section 1 hearings later this year.

In recognition of the need to provide some level of advance warning to patient witnesses, I intend to hold the planned section 2 hearings (patients and ICR evidence) in the slot which has already been announced in September 2026, at which time I hope and expect the accommodation issues to have been resolved by the Scottish Government or for them to have found us alternative accommodation, expectations which I hope you agree do not seem unreasonable in the circumstances.

## Conclusion

Such, in any event, were the circumstances in which I considered that I had no realistic choice other than to hold the hearings remotely, the only alternative being that of postponement. I hope that the explanation set out above demonstrates the considerable amount of thought which was put into re-arranging our plans to seek to make progress, whilst balancing important competing considerations. I have a small but dedicated team who have been working extremely hard to an already ambitious timetable for the section 1 hearings. Their preparation work for the hearings has already been distracted by having to address the underlying matters to which this correspondence relates. The continuing uncertainty over the building's status means this is likely to continue.

In light of the response to the recent statement of my intentions, from you and others, and the very real anxiety which has been conveyed to me on behalf of patients, I will now re-assess whether there is any viable basis for holding remote hearings in April/May. The only alternative will be postponement until a date in the future, which would allow for steps to be taken for alternative accommodation to be found or the safety issues with our current hearing suite to be resolved by the Scottish Ministers.

I hope that this response has been of assistance in addressing the important matters you have raised with me. In assessing what I conceive to be the only realistic options on the table I would be interested to know whether those whom you represent have any further views to express on them. I will be making a similar enquiry of the recognised legal representatives of core participants, but if there is anything you wish to share then I would obviously consider it very carefully in deciding on next steps.

Given the important public issues which your correspondence raises, I intend to publish your letter and this response on the Inquiry's website at close of business today. I also intend to send a copy to recognised legal representatives of our core participants and to another MSP who has separately raised similar concerns with me on behalf of a constituent.

Yours sincerely,

A handwritten signature in black ink, appearing to read "David Lam," with a small flourish at the end.

The Hon. Lord Weir

Chair of the Eljamel Inquiry