

THE ELJAMEL INQUIRY

Supplementary submission to the Inquiry on behalf of NHS Tayside clarifying NHS Tayside's position regarding representation and support to current and former employees

This submission supplements the previous submissions provided on behalf of NHS Tayside to the Inquiry dated 4 September, 13 November, and 21 November 2025 regarding representation and support to its current and former employees.

At the Opening Statements Hearing on 26 and 27 November 2025, Counsel to the Inquiry requested clarification of two matters:

- the status of the Senior Solicitor within the Central Legal Office, not part of NHS Tayside's legal team for this Inquiry, whom it is proposed would be involved in providing legal support to individual current and former employees of NHS Tayside ('Senior Solicitor');
- whether counsel will be involved in the legal support given to individual current and former employees.

We confirm that the separate Senior Solicitor tasked with providing legal support to current and former employees of NHS Tayside would not be the recognised legal representative of those individuals.

Rule 5 of the Inquiries (Scotland) Rules 2007 states that a lawyer shall be regarded as a person's 'recognised legal representative' where:

(a) a core participant, other than a core participant referred to in rule 6; or

(b) any other person required or permitted to give evidence or to produce documents or any other thing during the course of the inquiry,

has appointed *a qualified lawyer to act on that person's behalf.* (Emphasis added)

As already explained, NHS Tayside's legal team are its recognised legal representatives in terms of Rule 5, having been appointed to act on its behalf. They are not the legal

representatives of any individual in this Inquiry.¹ The Senior Solicitor who will be available to provide legal support to current and former employees of NHS Tayside has not been appointed as NHS Tayside's legal representative.

NHS Tayside will fund the support to be provided by the Senior Solicitor to individual current and former employees, which will be completely separate from the work undertaken for NHS Tayside by its legal representatives.

The Senior Solicitor will not be appointed in terms of Rule 5 by the individuals who are current and former employees of NHS Tayside to act on their behalf, thus will not be their recognised legal representative. The Senior Solicitor will provide support to those individuals but not legal representation. The Senior Solicitor will not instruct counsel to provide additional support.

It would not be appropriate, in any event, for the Senior Solicitor to seek to provide legal representation to individual current or former employees of NHS Tayside because there may be conflicts of interest *between* those individuals. In certain circumstances, it may be in the best interests of individual current or former employees of NHS Tayside to appoint their own recognised legal representative. It is nevertheless envisaged that in many cases the support offered by the Senior Solicitor will suffice.

Una Doherty KC
Cat MacQueen, Advocate
Counsel for NHS Tayside

3 December 2025

¹ 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, dated 21 November 2025, para.4.