

# **THE ELJAMEL PUBLIC INQUIRY**

## **WRITTEN SUBMISSION**

on behalf of

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

**CORE PARTICIPANT**

**In anticipation of the procedural hearing due to take place on 14 May 2026**

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### **INTRODUCTION**

1. The Scottish Ministers welcome the opportunity to make this Written Submission in anticipation of the procedural hearing due to take place on 14 May 2026.
2. This Written Submission provides a response to matters arising from the Note issued by Senior Counsel to the Inquiry on 7 May 2026.
3. For the avoidance of doubt, as was the case at the last procedural hearing, these Written Submissions are provided for the Scottish Ministers in their role as Core Participant and material providers to the Inquiry. The authors of these submissions have no role in respect of the Scottish Ministers' sponsorship of the Inquiry.

### **RESPONSE TO PARTICULAR POINTS RAISED BY COUNSEL TO THE INQUIRY**

#### **Preparatory work to support disclosure of information to the Inquiry**

4. Since the commencement of the Inquiry, the Scottish Ministers have carried out significant preparatory work, with a view to assisting the Inquiry in making efficient progress in ingathering evidence relevant to its Terms of Reference and List of Issues. The following sets out the preparatory work that has been undertaken in anticipation of compliance with the Inquiry's subsequently published protocols and addresses many of the issues identified by Senior Counsel's Note at paras. 56-61.

5. The process of identifying relevant documents formally began on 11 April 2025, following the establishment of the Inquiry on April 3, 2025, when the Terms of Reference were announced. The Scottish Ministers were keen to commence that process prior to any formal request from the Inquiry, in order to ensure that they were well prepared to respond to requests for documents from the Inquiry when such requests were received. Search terms were developed to capture all documentation of potential relevance to the Inquiry's Terms of Reference and List of Issues. These search terms were used to interrogate the Scottish Government's various corporate electronic systems, including eRDM (the main records repository) and its predecessor, G Drive; Objective Connect; the Microsoft Outlook folders of past and present members of staff; OneDrive and C Drive folders; and WhatsApp records. Legacy paper files held by the Scottish Government and the National Records of Scotland were also searched. In addition, a search and retrieval exercise was commissioned within the network of Health and Social Care Directors and their Deputy Directors.
  
6. These various searches identified *circa* 400,000 individual documents of potential relevance to the Inquiry. These documents were screened for relevance and many duplicate documents were sifted out. This refinement exercise reduced the number of relevant documents to around 19,000. The Scottish Ministers instructed their legal representatives to review these documents for relevancy and duplication, as well as checking for any potential issues of privilege or confidentiality (such as data law compliance). This initial exercise is now largely complete, reducing the number of relevant documents further, to around 17,000. This process has involved significant work from an extended team of 26 solicitors in order to make progress at pace. The core legal team are now undertaking a further detailed review of documents flagged as part of the initial screening, in order to more fully consider any issues of privilege or confidentiality that might require to be flagged to the Inquiry team as part of anticipated document disclosure exercises. The legal team, in conjunction with the Scottish Government's Inquiry Response team, are also developing a system of indexing and organisation, such as to ensure that documentation can be disclosed in an organised and user-friendly format. Whilst that involves additional work for the Scottish Ministers (and takes additional time), it is anticipated that this will save resource for the Inquiry. The Scottish Ministers are keen to ensure that the Inquiry does not receive large volumes of disorganised papers as part of any disclosure exercise. A total of 172 documents were identified as directly relevant to the Inquiry's section 1 hearings and were submitted on 9 March 2026 in response to the Inquiry's Rule 8 request. The

Scottish Ministers would welcome discussions with the Inquiry team as to the most appropriate means and timing for disclosure of the remaining documents to the Inquiry.

7. For the avoidance of doubt, the Scottish Ministers' approach to document review has been, and will be, iterative. Upon receipt of the List of Issues from the Inquiry, the Scottish Ministers carried out fresh searches to ensure that there were no additional documents that would fall within the scope of those issues, which had not been returned during its initial searches. Given the breadth of the original searches, nothing new has arisen. Should the List of Issues be further updated or amended, further searches will be conducted, to ensure that the process of identifying all documents of relevance to the Inquiry remains as robust as possible.

### **Rule 8 Process**

8. As outlined at para. 59 of Counsel to the Inquiry's Note, on 10 November 2025, the Inquiry served a Rule 8 Notice upon the Scottish Ministers, requesting the preparation of a witness statement addressing a variety of matters. A witness statement, signed by Caroline Lamb, the Director General for Health and Social Care within the Scottish Government was submitted to the Inquiry on 9 March 2026. The statement amounts to more than 23,000 words and is 74-pages long. It provides an explanation of *inter alia*: (i) the corporate governance structure of the Scottish Government; (ii) the various responsibilities held by the Scottish Ministers in respect of the management and regulation of healthcare in Scotland; (iii) the relationship that the Scottish Ministers have (and have had over the relevant period) with other relevant parties; (iv) their involvement in respect of the issues arising from Mr Eljamel's clinical practice over the relevant period; (v) the Scottish Ministers' role in respect of previous reviews and investigations regarding Mr Eljamel's practice; and (vi) the process leading up to the establishment of this Inquiry.
9. The documents appended to, and produced with, Ms Lamb's witness statement (being the 172 documents referenced in para. 6 of this submission) do not form the full body of documents held by the Scottish Ministers that may be of relevance to the Inquiry. The Scottish Ministers are grateful for the confirmation they received from the Inquiry, during the Rule 8 process, that disclosure should, at that time, be restricted to provision only of the documents directly relevant to Ms Lamb's statement and the Inquiry's section 1 hearings. In particular, the Scottish Ministers welcomed the Inquiry's recognition during the Rule 8 process (as has also been highlighted at page 37 of Counsel to the Inquiry's Note) of the importance of compliance with data protection

obligations. The Scottish Ministers are keen to explore further with the Inquiry the potential for future use of section 21 notices and blanket restriction orders as tools to address both the obligations of the Scottish Ministers and the Inquiry and facilitate full document disclosure to the Inquiry.

### **Hearing venue issues and resourcing of the Inquiry**

10. The issues identified from paras. 19 to 39 of Senior Counsel's Note will be responded to separately by the sponsor team.

### **Trauma-informed policy**

11. The Scottish Ministers welcome the Inquiry's explanation as to the trauma-informed approach it will take to its hearings and commends all the steps taken by the Inquiry to ensure the patient group are able to fully contribute to the work of the Inquiry.

### **Future hearings dates**

12. The Scottish Ministers understand from para. 74 of Counsel to the Inquiry's Note that Section 1 hearings are now due to take place in September. The Scottish Ministers are grateful for the further clarification provided in this respect. They welcome the indication given at para. 76 of the Note that disclosure relevant to these hearings will be on a rolling basis and take place further in advance of the hearings than originally anticipated. They also welcome the commitment, set out in para. 71(h) of Counsel's Note that, going forward, the Inquiry will endeavour to provide better advance notice of the likely timing of requests for disclosure of documents by Material Providers. Indicative timings will enable the Scottish Ministers and their legal team to ensure that sufficient resource is available to respond to such requests when received, within the timescales set by the Inquiry.

13. Detailed forward planning is essential to ensure that all core participants can participate fully in the work of the Inquiry and contribute to the best of their ability. The Scottish Ministers also welcome the recognition from Counsel to the Inquiry, again at para. 71(h) of his Note, that reasonable periods of notice in respect of timetabling would also be of benefit to all engaging with the Inquiry. The Inquiry will note from the Scottish Ministers' Opening Statement that many of the witnesses who are likely to provide relevant evidence to the Inquiry are no longer in post. Some have retired or have moved on to other employment. Those who remain in post are subject to a large number of other professional commitments. In both instances, a reasonable period of notice would be of assistance in ensuring that the witness is able to put aside sufficient

time to assist the Inquiry to the best of their ability. Such notice will, of course, also be mutually beneficial to the witness and the Inquiry in ensuring that the “*one substantive witness statement review*” process outlined in Counsel to the Inquiry’s Note may be effective.

14. The Scottish Ministers are keen to engage with the Inquiry on a regular basis in relation to forward planning and to discuss realistic timescales for any preparatory work that will be required. The Scottish Ministers’ legal team are keen to take up the offer of a meeting with the Inquiry’s solicitor to discuss such matters, again as set out at para. 71 (h) of Counsel’s Note, and look forward to such a meeting being scheduled in early course.
15. In that context, they note the proposed timetable for witness scheduling as set out in para. 78. The two-week period proposed falls at the beginning of the school summer holidays. It is anticipated that this will cause administrative difficulties in obtaining the necessary information and instructions. Earlier intimation would be welcome, if achievable.

### **Confidentiality undertakings**

16. In relation to the call made at para. 37 of Counsel to the Inquiry’s Note, the Scottish Ministers would note the following. On 4 March 2026, the Inquiry solicitor wrote to Harper Macleod with a style confidentiality undertaking for core participants and a confidentiality undertaking for designated legal representatives, requesting that they be signed by those who will have access to confidential material (in either a core participant capacity, a material provider capacity or in both capacities). On 18 March, access was provided to Harper Macleod by the Inquiry to an Objective Connect space, where the confidentiality undertakings for the relevant solicitors from Harper Macleod, who act on behalf of the Ministers, and by Senior and Junior Counsel were uploaded that day. Signed confidentiality undertakings for the Scottish Ministers’ Inquiry response team were provided to the Inquiry on 21 April. The Scottish Ministers’ Inquiry response team also co-ordinated an exercise of identifying and requesting that confidentiality undertakings be signed by those who will in future likely have access to confidential material related to the Inquiry. A further 56 confidentiality undertakings for a wider cohort of individuals within the Scottish Government who may in future come into contact with documents shared by the Inquiry as it moves to that phase of its work were uploaded to the Inquiry Objective Connect space over the course 6 and 7 May, with updates provided thereon to the Inquiry Solicitor. The Inquiry was, as at 2pm on

7 May, in possession of 79 confidentiality undertakings. A further two confidentiality undertakings for Scottish Government staff were submitted to the Inquiry on 8 May. The Scottish Ministers regret the delay in the provision to the Inquiry of some signed confidentiality undertakings. As the Inquiry Solicitor was also advised on 7 May, further confidentiality undertakings will be submitted once a new Government has been formed and the need for any additional undertakings will be kept under review as the work of the Inquiry progresses (both in relation to personnel changes and any additions resulting from particular information provided by the Inquiry or requested by the Inquiry).

17. The exercise outlined however, did not extend to include those staff who provide shared services to the Inquiry, such as IT services. That will be addressed through the sponsor team submissions.

## **CONCLUSIONS**

18. The Scottish Ministers look forward to attending and contributing to the procedural hearing on 14 May 2026. They wish to take this opportunity to restate their commitment to supporting the important work of the Inquiry in every way they can.

**Laura Thomson K.C.**

**David Blair**

**Advocates Library**

**12 May 2026**