Witness Name: Elizabeth Smith CBE, MSP
Statement No: G0001-00032

Dated: 10 March 2026

ELJAMEL INQUIRY WRITTEN STATEMENT OF ELIZABETH SMITH MSP

I, Elizabeth Smith, will say as follows:-

Part A

Your roles and responsibilities

1. Please set out your role and qualifications.

1.1. I have been a Member of the Scottish Parliament since May 2007. I am a Regional Member for Mid Scotland and Fife.

1.2. Prior to my election in May 2007, I worked for Sir Malcolm Rifkind KCMG, KC as a Policy Advisor and, before that, between 1983-2001, I taught Economics and Modern Studies at George Watson's College (for the period 1989-2001, I was Assistant Head of Department).

1.3. I have a Joint Honours Degree in Economics and Politics from the University of Edinburgh 1982 and a Diploma in Education from Moray House College of Education 1983. I am submitting my current professional CV [G0001-00001].

2. Please explain your professional/ occupational background, in particular focussing on roles and the responsibilities which you held relevant to the patients of Mr Eljamel or systems relating to their care. If you wish, you may exhibit a CV with your statement.

2.1. In my role as a Member of the Scottish Parliament for Mid Scotland and Fife, my primary responsibility in terms of Eljamel case work has been to represent Mrs Jules Rose (resident in Kinross) but I have also provided a great deal of advice to other former patients and their families and, in several of these cases, particularly those relating to Mr Pat Kelly, I have worked with other MSPs, principally Mr Michael Marra MSP and Mr Willie Rennie MSP.

2.2. I can confirm that it is only in my role as an MSP that I have had contact with the former patients of Mr Eljamel.

Part B – your involvement in the representation of individuals with an interest in the professional practice of Mr Eljamel

3. Please set out when, how and by whom you first became involved in matters related to the professional practice of Mr Eljamel/ the systems related to it and the principal issues or concerns you became aware of relating to those matters?

3.1. I first received an email about Mr Eljamel on 10 August 2016, although I was aware of the concerns about Mr Eljamel through the media just prior to this. This constituent and former Mr Eljamel patient's name was Z0003 (resident in CAT D). The correspondence between me, Mr Z0003 and his daughter CAT D is documented in chronological order [G0001-00002]. It was a distressing case, as is set out in detail in the letter to me on 10 August 2016 and which made substantial reference to the alleged medical malpractice of Mr Eljamel [G0001-00002_1-6].

3.2. With regard to Mrs Jules Rose, she first approached me on 25 September 2019 [G0001-00009_19] and, since that time, I have been in extremely regular contact with her (often on a weekly basis) regarding her complaints about her treatment under Mr Eljamel, her complaints about NHS Tayside, the Scottish Government, health agencies, and, on occasion, the police [G0001-00009; G0001-00010; G0001-00011; G0001-00013; G0001-00016; G0001-00018; G0001-00019; G0001-00020; G0001-00021, G0001-00025; G0001-00026 and G0001-00027].

4. Please list the main individuals in whose interests you have acted since that time, with details of your understanding of their connection with the professional practice of Mr Eljamel/ the systems related to it and their principal issues with it?

4.1. Herewith a list of all persons who have contacted me about the Eljamel case with the date of the first approach made. **P** identifies a former patient and **F** a family member.

- 10 August 2016 Z0003 P (but represented by Family) - CAT C [G0001-00002].
- 24 March 2017 R0069 P - CAT C
- 25 September 2019 Jules Rose P - CAT C
- 26 September 2019 Pat Kelly P - CAT C
- 28 February 2020 Z0053 P - CAT C
- 28 February 2020 R0154 P - CAT C
- 3 November 2022 Z0084 P - CAT E [G0001-0030]
- 9 November 2022 Z0054 F - CAT C
- 25 November 2022 Z0055 P - CAT C
- 28 November 2022 R0122 P - CAT C
- 28 November 2022 R0440 P - CAT C
- 5 December 2022 Z0056 P - CAT C
- 15 December 2022 Z0057 F - CAT C
- 15 December 2022 R0478 P - CAT C
- 16 December 2022 Z0081 P - CAT C
- 23 December 2022 R0086 F - CAT E
- 2 January 2023 Z0058 F - CAT C
- 7 February 2023 Z0059 F - CAT C
- 15 March 2023 R0197 P - CAT C
- 27 March 2023 R0464 P - CAT C
- 19 April 2023 Z0073 F (- CAT C
- 3 May 2023 Z0060 P - CAT C
- 16 June 2023 R0424 P - CAT C
- 8 September 2023 Z0061 F - CAT C
- 25 January 2024 R0003 F - CAT C
- 28 September 2024 Z0062 F - CAT C

4.2. I also received contact from the following persons who were thanking me for taking up the Eljamel case in the public forum, thereby identifying themselves as either a former patient or a family member. They did not, however, ask me for assistance with representing them:

- 9 July 2024 R0099 P - CAT C
- 9 July 2024 R0013 (unsure if P or F) - CAT C

- 10 July 2024 R0413 P - CAT C
- 10 July 2024 R0459 F - CAT C
- 10 July 2024 Z0050 P - CAT C
- 11 July 2024 Z0049 P - CAT C

5. Over that period, what have you understood the issues and concerns of those in whose interest you have acted in this regard to have been, with particular regard to the following matters, insofar as relevant to the professional practice of Mr Eljamel:

5.1. The overwhelming concern of the former patients who have corresponded with me over a ten-year period has been the alleged serious medical and professional malpractice of Mr Eljamel as these constituents - or a close relative - underwent surgery with him whilst he was employed at NHS Tayside.

5.2. The medical malpractice relates to what patients frequently described as “botched operations” which left them in greater pain than was the case prior to surgery, disfigured, and, in many cases, physically disabled. I was also frequently made aware of the life changing circumstances of patients post operation(s) and the damaging psychological effects on themselves and their families.

5.3. Several of the former patients also expressed very considerable concern and anger about the alleged cover-ups within NHS Tayside. These sometimes related to the perceived silencing of whistleblowers when they wanted to raise issues about the medical malpractice they believed they had witnessed, often in the operating theatre, the alleged bullying by Mr Eljamel of medical staff who worked with him, and the alleged refusal of senior managers to address the situation even after Mr Eljamel had left the employment of NHS Tayside.

5.4. Some patients alleged that the Scottish Government had not taken the relevant action required given its statutory responsibility towards NHS boards. A number of patients allege that, at times, the Scottish Government and NHS Tayside have been guilty of collusion in order to cover up the true facts. These concerns remain current for some patients.

6. Particular themes arising from Mr Eljamel’s clinical practice, including communication, surgical competence or outcomes and other related matters;

a) **Issues related to the appointments of Mr Eljamel to his various professional positions in the relevant period;**

b) **Issues relating to factors possibly affecting outcomes for patients, as set out in the Inquiry's Term of Reference 2, including workload, the role of Mr Eljamel's supervision/ training of junior colleagues, his involvement in private practice, research or his teaching commitments;**

c) **Clinical governance systems within NHS Tayside, including whistleblowing systems and use of/ compliance with them;**

d) **Complaints and feedback systems within NHS Tayside, including the handling and resolution of patient complaints;**

e) **The role of any other bodies who could have had a role to play in Mr Eljamel's professional practice;**

f) **Information sharing/ honesty on the part of Mr Eljamel with patients, NHS Tayside or regulatory bodies;**

g) **Mr Eljamel's clinical suspension in June 2013, supervision in December 2013 or resignation from his position with NHS Tayside in May 2014;**

h) **The role of NHS Tayside in the voluntary removal by Mr Eljamel of his name from the GMC medical register in 2015;**

i) **The previous investigations into matters relating to the professional practice of Mr Eljamel listed in the Inquiry's Term of Reference 12;**

j) **Information sharing/ honesty on the part of NHS Tayside with patients, regulatory bodies, the Scottish Government or the police.**

k) **Document management systems within NHS Tayside relating to the professional practice of Mr Eljamel including the accuracy, comprehensiveness or retention of key documents. In particular:**

i. How and by whom have those concerns and issues been articulated to you?

ii. Please indicate (as far as you are able to do so) how prevalent or widespread these concerns are/ were

6.1. In relation to the particular themes which related to Mr Eljamel's clinical practice, surgical competence, and the related communication networks, I have carefully collated the documents [G0001-00009 – G0001-00030], as requested by the Public Inquiry which, I believe, contain relevant evidence. I would like to highlight those notes which relate to the detailed medical information provided by Mr Pat Kelly [G0001-00014].

6.2. The majority of the case notes as requested by the Public Inquiry relate to complaints and feedback systems within NHS Tayside [G0001-00009-G0001-00030] (i.e. question 6(d)).

7. Please set out a chronology of your involvement in seeking to understand or resolve these issues, indicating the extent to which you considered that progress has or has not been made towards the resolution of the matters set out under 5(a) to (l) above.

7.1. As requested by the Public Inquiry I have submitted hard copy of the case notes relating to different issues and copies of how I tried to address patients' concerns [G0001-00009 -G0001-00030].

8. In particular, in relation to the previous investigations into matters relating to the professional practice of Mr Eljamel listed in the Inquiry's Term of Reference 12, please explain:

a) What involvement if any, you had in any of those investigations, including key submissions, requests, interactions, meeting, milestones and individuals involved; and

a. Over a ten-year period, I have been extensively involved, in my role as an MSP, as an advocate for the former patients (listed in question 4 above) and their families as they have sought answers to their questions about the Eljamel case. This has involved many hundreds of meetings, phone calls, email

correspondences, as well as using parliamentary channels, attending former patients' demonstrations and regular engagement with Mr Michael Marra MSP and Mr Willie Rennie MSP.

b) Your impression of the objectives of these investigations and the extent to which you consider them to have been successful or not and why.

b. While it is true that every stakeholder to whom I have spoken on behalf of the former patients and their families has been extremely concerned about the Eljamel case, I have remained very frustrated by the difficulty of obtaining full transparency about who knew what, when, in terms of the incidence of alleged medical malpractice on the part of Mr Eljamel, why NHS Tayside did not act sooner to prevent further operations under the direction of Mr Eljamel taking place when it was evident that there were very serious concerns about his behaviour. There have also been times throughout the ten-year period when I have been very frustrated by some Scottish Government Ministers for not acting more quickly to recognise the scale of the concerns amongst patients. In particular, I was frustrated by the time it took to lodge a Public Inquiry after repeated requests to do so. Even now, I feel there is some degree of obfuscation between NHS Tayside and the Scottish Government when it comes to addressing former patients' concerns.

9. Please set out any further information you think would be relevant to the Inquiry's consideration of the matters covered in this section.

9.1. Any additional information which I consider relevant to the Public Inquiry is listed in the documents exhibited with this statement.

<u>Part C- Campaign for a Public Inquiry</u>

10. Please explain your involvement, if any, in the campaign for a public inquiry into matters relating to the professional practice of Mr Eljamel and systems relating to it.

10.1. I was heavily involved as a parliamentarian in the demand for a Public Inquiry as the documents requested by the Public Inquiry show [G0001-00003, G0001-00004, G0001-00018 and G0001-00019]. I was demanding a Public Inquiry because

I believed it was the only route that was likely to secure the truth since a judge-led Public Inquiry is more trusted by the public because of the respect for judges' professional experience and because witnesses are required to give evidence under oath. All other attempts and obtaining answers had not, in my view, been successful.

11. Please set out the key objectives of those in whose interests you were acting in this regard and when you were aware of those objectives being formulated and advanced.

11.1. I believe the objectives of the former patients and their families were the same as mine, namely other routes, whether via NHS Tayside officials, the Scottish Government or, in some cases, the police had not secured the answers they needed. The desire for a Public Inquiry from the former patients was first mentioned in August 2015 when it was reported in The Courier on 31 March 2015 [G0001-00003_1]. I made my first public call for a Public Inquiry on 02 November 2022, having exhausted all other routes of trying to get to the truth about what happened [G0001-00003_2].

12. Please set out the details of and your reflections on key meetings you have attended, correspondence you have engaged in with NHS Tayside, the Scottish Government or others in relation to the campaign for a public inquiry.

12.1 I have provided the documentation which relates to my parliamentary work to seek a Public Inquiry and other related information [G0001-00018 and G0001-00019].

12.1. As the documents requested by the Public Inquiry will show, I believe I was assiduous in providing NHS Tayside, the Scottish Government and other agencies with detailed and well evidenced requests for information [G0001-00009 - G0001-00030]. I felt the responses I received did not fully answer the questions I had asked leaving serious "unknowns" about the Eljamel case.

13. In particular, to what extent do you consider the concerns of those in whose interests you were acting in this regard were adequately addressed by:

a) The Scottish Government's creation of an independent Clinical Review for former patients or

b) The Scottish Government's announcement of a public inquiry on 7th September 2023, including but not limited to the retention of the ICR as a part of its plan? Please explain why.

13.1. I was very clear in my own mind, and as result of reading correspondence from and meeting with former patients, that an independent clinical review was important but also not sufficient on its own to uncover the truth about what happened. To this end, I was very pleased when the Scottish Government was persuaded to launch a Public Inquiry on 7 September 2023 and that this would run alongside the clinical reviews (and also a police investigation looking into the allegations of criminality on the part of Mr Eljamel). It was clear to me that the main concerns of patients broadly fell into two groups: a) questions about their own treatment at the hands of Mr Eljamel and his teams and b) why NHS Tayside apparently did not take the appropriate action at the relevant time.

14. In particular, what did you understand the rationale for, the objectives of and the remit of those processes to be when they were announced.

14.1. In terms of the independent clinical review, I understood that former patients would be able to take their grievances about their mistreatment by Mr Eljamel to a medical professional who had the expertise to understand and assess their case. In terms of the Public Inquiry, I understood this was to have far-reaching powers to allow a senior Judge to have oversight of the whole Eljamel scandal, much like it is set out in the Public Inquiry's remit.

15. Did these steps address those concerns in a timely fashion or should they have been addressed differently/ at a different time? If so, please explain why.

15.1. Two former patients, Mrs Jules Rose and Mr Pat Kelly wrote to me on 4 April 2025 stating their objection that the Terms of Reference were too narrow, given that they did not include HSE and the GMC in full [G0001-00033 and G0001-00034]. Mr Kelly copied me into two emails he had written in this regard to Lord Weir on 7 April 2025 [G0001-00035 and G0001-00036] in relation to their concerns. Along with Michael Marra MSP and Willie Rennie MSP, I wrote to Lord Weir on 21 April 2025 [G0001-00031_6] and he responded on 1 May 2025 [G0001-00031_1-5]. Copies of both letters appear on the Public Inquiry website.

16. Please set out any further information you think would be relevant to the Inquiry's consideration of the matters covered in this section.

16.1. The 2005 Act is very specific about what powers govern Scottish Public Inquiries and why HSE and GMC (in part) would be outwith this remit given that they are reserved bodies. Nonetheless, I understood the patients' concerns that they could not be included in Lord Weir's Inquiry given both these bodies had, in my opinion, questions to answer. I discussed this matter with Mr Michael Marra MSP and Mr Willie Rennie MSP after which we met with Mr Neil Gray, Cabinet Secretary for Health and Social Care, to ask him to explore options with the UK Government. This meeting took place on 15 May 2025 [G0001-00028].

16.2. Following information that was in the press on 18 May 2025 which cited the possibility that Mr Eljamel might have worked in English hospitals, I felt there was scope to take evidence from both the GMC and HSE [G0001-00005].

Part D – documents

17. Please set out the broad locations of where documents thought to be relevant to the requests made in this rule 8 request were stored, including hard copy or electronic systems, and the identity of the party who or which controls or administers such systems.

17.1. All the relevant documents have, over time, been stored confidentially in my office in the Scottish Parliament (hard copy documents) and within my Scottish Parliament email archive (emails). I have personally taken charge of all Eljamel communications with administrative help from one parliamentary assistant assigned to the role. These individuals are Mr Miles Briggs MSP (2007-16), Mr Chris Land (2016 and deceased 2019), Mr David Siddle (2019-22) and Mr Gavin McWhinnie (2021 to date). Three other members of staff in my constituency office and my regional office respectively, namely Mrs Lynne Mitchell, Mrs Lorna Thompson and Mr Fergus Mair took phone calls on one occasion each to pass information to me (already cited in this statement) but did not discuss the issue with the persons. All documents, whether these are emails or hard copies, which I consider relevant to the questions asked of me by the Public Inquiry, have been submitted to the Public Inquiry. Any remaining

hard copies which are not relevant to the Public Inquiry are stored confidentially in my office.

18. As far as the searches for documents undertaken by you in response to this rule 8 request are concerned, as regards of the categories of documents which have been requested:

(a) Please indicate what searches for documents have been undertaken for each category, including where such searches were undertaken and why these searches were thought to be comprehensive as regards the documents sought in each category, including details of search terms used on electronic systems of document storage;

a. I can provide a categorical assurance to the Public Inquiry that a fully comprehensive examination of each document I hold has been undertaken by me. These were sourced for me by Mr Gavin McWhinnie during the period between receipt of request for this witness statement (6 November 2025) and now. At all times, the searches were made within the confines of my Parliamentary Office (for hard copy documents) or within email archive held only by me or my staff (for emails). Extensive searches were undertaken at all times to access relevant documentation following the questions put to me by former patients who I was representing. Clearly, I had to work within the parameters of GDPR and permission granted by former patients to use material which was their property. I made frequent use of the Internet to search for background information which assisted me in my support for the former patients. Any non-email electronic information (e.g. a press cutting) that I consider relevant to the public inquiry has been provided within the accompanying documentation.

b) **If there are significant classes of relevant documents which were thought to have existed at some point which no longer exist or are no longer held by, on behalf of or under your control, please identify what these are;**

b. I do not believe there are any missing documents within the files that I hold.

c) **If there are significant classes of relevant documents which were thought to have existed at some point which no longer exist or are no longer held by you, on your behalf of or under your control, please identify broadly what has**

happened to them (including whether they have been lost or destroyed and, if so, when and why); and

c. Given, my answer above, I do not have any concerns that important material is missing from my files.

d) **If there are significant classes of relevant documents which were thought to have existed at some point which no longer exist or are no longer held by you, on your behalf of or under your control and you are aware of these being held by or on behalf of another party, please indicate the nature of these documents and by whom you believe them to be held.**

d. I am party to a great deal of documentation that has been sent jointly by Mrs Jules Rose and Mr Pat Kelly to myself, Mr Michael Marra MSP and Mr Willie Rennie MSP jointly, but I am not party to any of the documents held by my two colleagues or any other elected members, nor do I have knowledge of any documents being held by another party.

19. Please certify that the documents which have been produced in response to this rule 8 request are, to the best of your knowledge and belief, all documents held by you, on your behalf or under your control.

19.1. I certify that the documents I am submitting alongside this witness statement have been produced in response to the Rule 8 request, are documents held by me and under my control.

19.2. They have also been treated under GDPR legislation.

<u>Part E – Conclusions</u>

20. Please set out any reflections or views you have formed on the matters described above, in particular in the way in which NHS Tayside and/ or the Scottish Government have handled your representations on behalf of those with an interest in the professional practice of Mr Eljamel or campaigners based on your involvement in these matters.

20.1. Throughout the past ten years, I have found my engagement with NHS Tayside and the Scottish Government and other relevant agencies generally courteous and appreciative of the seriousness of the concerns expressed by former patients, their families and by parliamentarians. That said, I have been very frustrated on many occasions by the length of time it has taken NHS Tayside officials or Government Ministers to respond and set up meetings which I have regarded as urgent.

21. Please state what you consider the key challenges were, your understanding of the reason for those challenges, what went well and what did not (either as was apparent at the time or in hindsight), and whether you have identified things that could or should have been done differently in the way that the former patients of Mr Eljamel were treated by him, by NHS Tayside, by the Scottish Government or any other party based on your involvement in these matters.

21.1. I am of the strong belief that, as a result of the significant delays cited in answer 20, measures which could and should have been taken to address patients' concerns were delayed. I have provided some examples of the very long delays in seeking answers within NHS Tayside and the Scottish Government [G0001-00006].

22. What lessons, if any, have you learned and you think ought to be learned by him/ other consultant neurosurgeons, by NHS Tayside, by the Scottish Government or any other party based on your involvement in the matters set out above?

22.1. The most important lesson for any medical practitioner of whatever professional designation should be the unconscionable harm both physical and psychological that can be the outcome for their patients if they do not adhere to the highest medical standards and the code of professional conduct. The lines of responsibility and accountability should be clear at all times, and those who have oversight of these lines of responsibility and accountability should act quickly if there is any alleged breach of good practice. What I find most shocking about the whole Eljamel case is that he was allowed to continue practising when it was clear that he was suspected of serious malpractice. That meant more patients were harmed.

23. Please set out what, if anything, you consider can be done to improve systems used in the care and treatment of future patients like the former patients of Mr Eljamel, the way that such patients should be treated by health boards, Scottish Government or any other party based on your involvement in these matters.

23.1. All NHS health boards, in their obligation to the Scottish Government, should take every step necessary to ensure their procedures are clear, well understood by practitioners and patients, and wholly transparent. Sadly, and despite reassurances provided to myself and MSP colleagues, that “lessons have been learned” and that administrative procedures have been changed accordingly, this has not been the case for NHS Tayside. The witness statement from Levy and McRae provided to the Public Inquiry on 26 November proves this point.

Appendix C

I believe that all the relevant documentation which I hold in relation the Rule 8 request has been submitted to the Public Inquiry.

I believe that the facts stated in this written statement are true.

Elizabeth Smith CBE, MSP
10 March 2026